

R E P O R T S
O F
S P E C I A L C A S E S
Touching several
C u s t o m e s A N D L i b e r t i e s
O F
The City of **L O N D O N.**

Collected by Sir *H. Calthrop* Knight,
Sometime Recorder of *London.*

Whereunto is annexed divers
A N C I E N T C U S T O M E S
A N D
U S A G E S
Of the said
City of **L O N D O N.**

L O N D O N :
Printed for *Abel Roper*, at the Sun St.
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REPORTS

OF

SPECIAL CASES

THE LANCET

OF THE LANCET

OF

THE CITY OF LONDON

EDITED BY THE LANCET

WHICH IS THE LANCET

LANCET

AND

U.S.A.G.E.S

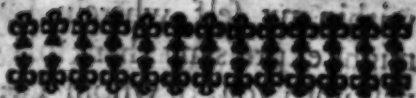
OF THE

CITY OF LONDON

Radcliffe Trustees

1880

Printed for the Trustees at the City of London



To the Right Worshipful
Sir **THOMAS LOB, K.**

ALDERMAN

OF
The City of **LONDON.**

Worthy Sir,

Being put in
mind of that
saying of Sene-
ca, *Ingratum si
dixeris Omnia dixeris.* And

having a desire to avoid that
Rock whereupon so many
have suffered Shipwrack,
have had often conflicts

A 2

with-

The Epistle Dedicatory.

within my self, wherein I
might express my thankful-
ness unto you, of whom I a
Stranger have received so
many Undeserved favours,
and at last bethought my
self, that (you being one of
the Noble Governours of
this famous City of London,
and being likewise a Presi-
dent over several Companies
of Merchants in it) a Trea-
tise concerning the Customs
of the City of London, or o-
therwise concerning the
Priviledges and Immunities
granted unto the Merchants
of London, would not altoge-
ther be an unfitting subject
to be presented unto your
view ;

The Epistle Dedicatory.

view; whereupon I have selected som few Cases collected by my self, of the resolution of the Iudges, concerning some Customes of your City, and some Charters granted unto the Citizens of it, and offered them unto your consideration, the which I desire you to accept as a pledge and token of a thankful mind, howsoever they in themselves are unworthy your pains to be taken in the reading of them: and so with my truest wishes of the continuance of all happiness unto your self, your thrice Noble Lady, and the branches of

The Epistle Dedicatory.

your flourishing Family,
I take my leave, ever rest-
ing,

From my Chamber
in the middle Tem-
ple, a Januarii
Anno Dom.

The affection-
ate and hear-
ty well-wisher
of all good unto

1661 you and yours

your consideration the

Henry Calthrop

accept as a pledge and token of

a thankful mind, howsoever

they in themselves are un-

worthy your pains to be re-

ceived in the reading of them:

and so with my trust

wishes of the continuance

of all happiness unto your

self, your three Noble Da-

ughters, and the branches of

your

A

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REPORTS

of special

CASES,

Touching several

CUSTOMES

And

LIBERTIES

Of the City of

LONDON, &c.

*The Case of the City of London concerning
Nesians in stopping up
the lights of their Neighbours
Houses by New-buildings.*

Reginold Hughes an Attorney of the Triarum?
Kings Bench being seized in his 7. Jac. Rex
demise as of Fee, of an ancient house Rot. 1490.
in la the

Kings-
Bench.
The
pleading
of this
case see
in the
New-
Book of
entries
fol. 20 &
21.

By stopping up lights

in the Parish of Saint Olaves in the
Ward of *Queen Hithe* *London* in the
South-Part of which Houle have been
three ancient Lighes (time out of mind)
Anthony Keeme having taken a Lease for
31. years from the Rector and Guar-
dians of the Parish Church of Saint
Michael at *Queen Hithe* by Indenture
of a ruinous house, and yard next adjoin-
ing unto the said Houle, with a Cove-
nant to bestow a 100 marks at the least
upon the repairing or new building of
the said Houle; doth¹¹ within two years
pull down the said Houle, and doth build
a new Houle in the place where the old
Houle stood, and likewise upon the yard
whereby the three ancient Lighes on the
South-side of ~~the~~ Houle are stopp^d up,
whereupon *Reynold* ~~doth~~ doth bring
his action upon the case against *Anthony
Keeme*, for the stopping up the Lighes;
unto which the said *Anthony* doth
plead a special Plea in Bar, shewing
the ruinousness of the Houle, and like-
wise the Lease made by the Rector and
Guardians, and the Covenant comprised
within the Lease, and doth also shew that
there is a custom in *London*, that if one
have an ancient house, wherein there are

by new Buildings,

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ancient Lights, and one other hath a House adjoyning upon that House; he that hath the adjoyning House may well enough enhance his House, or build a new House upon his ground, and so stop those ancient Lights of the House next adjoyning, unless there be some writing to the contrary. And he doth aver in fact, that there was no writing to the contrary, and that he, according to the Custome did take down the old House and build a new one upon the same Foundation and upon the Yard opposite unto the said Lights, whereby they were stopped up, and upon this Plea in Bar, the Plaintiff demureth in Law.

The Questions of this case are.

First, whether it be lawful for a man to build a House upon his own Ground, whereby the Lights of an ancient House are stopped, there being no Custome to enable him.

Secondly, whether the Custome of London will enable a man to build a new house from the ground, where no house formerly was, whereby he may stop the

By stopping up lights

ancient lights of his Neighbours house
Thirdly, Whether upon an ancient
foundation a house may lawfully be en-
hanced, so as it shall stop up the light of
the Neighbours house adjoining?

Quest. 1.

As to the first, it is clear by the opi-
nion of Sir Thomas Fleming, Chief Ju-
stice of the Kings Bench, Sir Christopher
Telvort, Sir David Williams, and Sir
John Crook, Justices of the Kings
Bench, that there being no custome, it
is not lawful to erect a new house upon
a void piece of ground, whereby the old
lights of an ancient house may be stop-
ped up; for the rule of equity, and law
saith, *Alterius est quod in alterum non latus*; and
the light which cometh in by the Win-

Three
commodi-
ties of
lights by a
window,
Air by
Health,
light by
profit,
pleasure
by pro-
spect.

case 9.
Red. El-
dred case.

dowes, being an essential part of the
House, by which he hath three great
commodities, that is to say, Air for his
Health; Light for his profit, prospect for
his pleasure, may not be taken away no-
more, then a part of his House may be
pulled down, whereby to erect the next
House adjoining. And with this resolu-
tion agreeth the Case of *Eldred* report-
ed by Sir Edward Crook, in his Ninth Re-
port, fol. 38. where he sheweth the an-
cient form of the Action upon the
Case,

Ly new Buildings.

8

case to be *quod messuagium horrida tene-
britate obscuratum fuit*; but if there be
hinderance only of the prospect by the
new erected House, and not of the Air,
not of the light, then an Action of the
case will not lye, insomuch that the pro-
spect is only a matter of delight, and
not of necessity.

*Vide, Har-
barts Re-
ports, Ra-
bins of
Barons, 131.*

As to the second, it was resolved by *Quest. 2.*
the opinion of the aforesaid Judges,
that the custome of *London* will not en-
able a man to erect a new House upon
a void space of ground, whereby the
ancients lights of an old house are stopp
up; for first the owner of the old house
having possession of a lawful easment
and profit which hath been belonging
unto the house by prescription, time out
of mind of man, may not be prescrib-
ed out of it by another *thwarting* cu-
stome which hath been used time out of
mind of man, but the latter custome
shall rather be adjudged to be void, and
Prescription against a Prescription will
never be allowed by the Law. 1. It may
well be that before time of memory the
owner of the said void piece of ground
granted unto the owner of the House,
to have his Windows that way without

By stopping up lights

any stopping of them, the which being done, and continued accordingly, hath begotten a prescription, the which may not be defeated by the Allegation of a general custome; and with this resolution doth agree a case adjudged, *Trin. 29. Eliz. Rot. 253.* in the Kings Bench; whereupon an action upon the case brought by *Thomas Blood* against *Thomas Mosley*; for erecting of a House in the County of the City of *Tork*, whereby the ancient lights of his House were stopped up: The Defendant did plead a Custome for the City of *Tork*, as there is here for the City of *London*, and adjudged that the Custome was naught, whereupon the Plaintiff had his Judgement: But if the Houses had been new erected Houses, or otherwise Windowes had been newly made Windows in that ancient House, the erection of that new House upon that void space of Ground would have been lawful notwithstanding that the Windows and Lights be stopped up; for it shall not lie in the power of the owner of the ancient House by setting out his new Windows to prevent him, that hath the void peice of Ground from making the best benefit of it.

As

As to the third point, it was conceived 3. *Quest.*
 that if the new house be only erected A new
 upon the ancient foundation; without house
 any enlargement either in Longitude or built upon
 Latitude, howsoever it be made so high an old
 that it stoppeth up the light of the old foundati-
 house yet he is not subject unto any on, with-
 action, because the law authorizeth a out en-
 man to build as high as he may upon an largement
 ancient Foundation, and it is no reason either in
 to foreclose a man from making his longitude
 house convenient unto his estate and de- or lati-
 gree by building up higher, when there tude,
 is no other impediment, but only some though
 windowes which are built out over his never so
 house; and agreeing to this, seemeth high built,
 the old book of 4. E. 3. 150. to be where shall not
 an Assize of Nuisance was brought for be taken
 erecting his house so high, that the light to pre-
 of the Plaintiff in the next adjoining judice the
 house was disturbed by it, and the Plain- Neigh-
 tiff upon the opinion of *Herl*, Chief Jus- bour.
 tice, did not proceed in the Assize, but
 let it fall to the ground; but if the new
 builded house exceeded the ancient
 foundation, whereby that excess is the
 cause of stopping up of lights, then is he
 subject unto the action of him whose
 light is stopped up, as it may appear by

By stopping up lights

22. H. 6. 35. And in the case at the Bar,
Judgement was given for the Plaintiff,
because he had brought his action for
building of a new House upon a void
piece of ground, by which his Windows
were stopp'd up. And ~~Keepe~~ the Defendant
only justifieth by the Custome, the ere-
ction of the House upon an old Founda-
tion, and upon the void piece of ground,
the which is not any answer at all unto
that which the Plaintiff layeth unto the
charge of the Defendant.

Touching

Of a Citizens changing his Trade.

Touching the Custome of Citizens leaving that Trade whereunto they have been Apprentices Seven years, and betaking themselves to other Trades.

Iohn Tolley having been an Apprentice Hill. 12.
in London by the space of seven years Jac. 1.
unto a Wool-Packer, after the seven years Stat. Rep.
expired, is made a Freeman of London;
afterwards he leaveth the Trade of a
Wool-Packer, and betaketh himself to
the Trade of an Upholster, and doth
exercise that Trade by many years,
whereupon one Thomas Allen an In-
former, doth exhibit an Information in
the Court of the Mayor of London, as
well for the King, as for himself, upon
the branch of the Statute made in the
fifth year of the late Queen Elizabeth, Informa-
tion upon
the Stat. of
5. Eliz. 4.
concern-
ing Ma-
nual occu-
pations
cap. 4. whereby it is enacted, That after
the first day of May next ensuing it shall
not be lawful unto any person or persons,
other than such as now do lawfully use, or
exercise any art, Mystery, or manual oc-
cupation, to set up, &c. any such occupation &c.

now used or occupied within the Realm of England, or Wales, except he shall have been brought up seven years at the least as an Apprentice in manner and form aforesaid, nor to set any person on work in such Mystery, Art, or Occupation, being not a Workman at this day, except he shall have been an Apprentice as aforesaid, or else having served as an Apprentice, as is aforesaid, shall or will become a Journeyman or hired by the year upon pain that every person willingly offending or doing the contrary, shall forfeit and lose for every default forty shillings for every moneth. And he sheweth, that John Tolly the now Defendant hath exercised the trade of an *Upholster* by the space of forty moneths, whereas he was never an Apprentice to that trade by the space of seven years; contrary unto the aforesaid Statute, whereby the said *Thomas Allen* doth demand the forfeiture of eighty pound unto the King and himself, whereof he the said *Allen* doth require the one moiety, according to the form of the said Statute. And this Information being removed out of the Court of the Mayor of London by *Certiorari* into the Kings Bench, the said *John Tolley* doth plead

The cu-
Some of L
pleaded in
Bar

changing his Trade.

plead a special Plea in Bar, shewing, that there is a custome of London which hath been used time out of mind of man, That every Citizen and Freeman of London, which hath been an Apprentice in London unto any trade by the space of seven years, may lawfully and well relinquish that trade, and exercise any other trade at his will and pleasure. And sheweth further, That all the Customes of London were confirmed by K. R. 2. in the Parliament holden in the seventh year of his Reign. And averreth, That he had served one in the Trade of a Wool-Packer, as an Apprentice, by the space of seven years, and that he was a Citizen and a Freeman of London, and that he did relinquish the trade of a Wool-Packer, and betook himself to the trade of an Upholster, as lawful it was for him to do; and so he demandeth the Judgment of the Court if this Information against him will lie; and upon this Plea in Bar, the said Thomas Allen doth demur in Law.

Of a Citizens

The Questions in the Case were these.

1. Whether the custome of relinquishing one Trade, after that he hath been an Apprentice by the space of seven years, and betaking himself to another Trade, wherein he hath not been an Apprentice, be good or no?

2. Whether it may be taken as a custome or no, or whether it shall be said to be the Common Law of the Realm, and so the Allegation of it, as a custome, nought?

3. Whether the Statute of the Confirmation of the *Customs of London*, made in the seventh of R. 2, as it is pleaded, shall be taken to be an Act of Parliament, or only a Confirmation made by the Letters Patents of the King in Parliament?

4. Whether the branch of the Statute of 3. *Edw.*, cap. 4. being in the Negative, inhibit all men to exercise the trade when they have not been Apprenticed seven years thereunto, is a Controlment of the custome of *London*, which can receive no support by the Statute of confirmations? and whether that custome shall

shall stand good in opposition of that branch?

5. Whether the trade of an *Upholster* be a Trade restrained by the Statute of *3. Eliz.* so as *John Tolley* may exercise it, notwithstanding that he hath not been an Apprentice to it by the space of seven years, according to the course of the Common Law? *Quest. 11*

6. Whether the Court of the Mayor of *London* be such a Court of Record, as that an Information may be exhibited there?

7. Whether a Moyer may be demanded of this Forfeiture by the Informer, when as a Proviso in the Stat. of *3. Eliz.* 4. doth appoint the levying, gathering, and receiving of such Forfeiture as falls in a City or Town Corporate to the Mayor, or other head Officers, to the use and maintenance of the same City or Town Corporate?

As to the first Question, Which is the lawfulness of the Custom, it was agreed to be good; for it might have a reasonable construction, beginning, and just cause for the putting of it in Execution, insomuch that *London* being a famous City for traffique and commerce,

1. 2. 3. 4.

merce, cannot but sometimes have Merchants and Tradesmen in it, who by misadventure of Pyrates or Shipwrack in the Seas, or by confiscation of their Goods in Forraign Countries abroad, or by casualties of Fire, &c. at home, have their Estates sunk, whereby they are not able for want of Stock and Means to continue that course of Merchandising and Trade wherein they have been brought up; there being great Stocks and sums of money requisite for the continuing of it, whereupon they are forc'd to leave that course, and betake themselves to some other Trade proportionable to that means which they have left. And it were lamentable, that when inevitable casualties have disabled a man to proceed in that course wherein he was brought up; he now should not be permitted to acquire his living by any other Trade. Also it may be, that the Trade whereunto he was an Apprentice, requireth great labour and strength of body, as the Trade of a Smith, Carpenter, and such like, and that through sickness or other disasters befall him, he become infirm in body, and weak in strength, whereby he is not able to use

chre

changing his Trade.

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that Trade. Now to debar him of all other Trades, which are mote besitting his crazy body, were somewhat unreasonable. Wherefore to meet with these inconveniencies, and to give encouragement unto the Citizens and Freemen of *London* this Custome of relinquishing the Trade whereunto they have been Apprentices by the space of seven years, and betaking themselves unto another Trade, hath had a perpetual allowance, and being grounded upon so good reason still hath its continuance, and may not any wayes be called in question for the unreasonableness of it.

As to the second question scil. Whether the Allegation of it as Custome in *London* that every Citizen and Freeman of *London* may relinquish his Trade wherein he hath been an Apprentice by the space of seven years, and exercise another Trade or no, be warrantable by the Rules of Law or no; insomuch that before the Stat. of 5. *Eliz.* 4. which restraineth it, it was lawful for every man to use what Trade he would, although he had not been an Apprentice by the space of seven years: And then it being the Common Law of the Realm,

Quest. 2.

See Quest. 1. of the 1st. part of this

Realm that a man might use any Trade although he had not been an Apprentice for seven years, it may not be alledged by way of custome in *London*, but it ought to have been shewed, as the custome of the Realm, for that which is the Common Law of the Realm, is the custome of the Realm? It was answered and agreed, That as this custome was alledged in this information, the allegation of it was warrantable in the Law, and it may well be said to be a custome before the Stat. of 5. *Edw.* For first,

Id. 1.

The custome is restrained to a Citizen and Freeman of *London*, so as he that is not a Citizen and Freeman may not enjoy the benefit of this custome, and it being restrictive of the Common Law, which giveth power unto all, as well Freemen as Citizens, to exercise what Trade they will, standeth well in custome, and may well be alledged by way of custome.

2.

This is alledged to be the custome of *London*, and so is tryed to a particular place; and howsoever it may be the Common Law of the Realm in other places, yet in *London*, which is for the most

most part governed by their particular Customes, it may well be said a Custom, and so the Plea in Bar good enough, as to this exception.

As to the fourth Question, *scil.* Whether the branch of the Statute of 3. Eliz. 4. be a repeal and controul of the Custom of *London* concerning the exercise of a Trade where he hath not been an Apprentice by the space of seven years? *Quest. 4.*

It was resolved that the Custom of *London* was of force, and was not any wayes controuled by that branch.

First, In regard that this being a particular Custom used in *London*, the general words of the branch of that Statute, shall not be taken to extend to the repeal of it: For so much regard is to be given unto that City, being *Camera Regia*, and as dear to him as the Apple of his Eye, that the Customes of that place shall not be overthrowen by the extent of general words, where there is no particular provision for it, might tend to a great derogation of the City, and likewise might be very prejudicial to the Commonwealth, when as the ill-affect-
edness of this City being the chief mem-
ber

ber of this politique body, cannot but make all the other members to be partakers of the ill disposition of it. And upon this reason it is, that before such time as the Stat. of R. 2. was thought of, it was holden that the Stat. *De Religiosis*, otherwise called the Statute of *Mortmain*, made in the seventh of the Reign of E. 1. which did make a general restraint from disposing of lands in *Mortmain*, did never extend unto the repeal of the custome of *London*, which did enable those that were Citizens and Freemen of *London* to devise their lands in *Mortmain*, as before.

Stat. 1.

Secondly, The City of *London*, and the custome therein used, being the example and patern which the Statute of 5. *Elix.* in some parts of it doth require should be followed, as in that branch, wherein provision is made, that every person being an householder, and twenty four years old at the least, dwelling or inhabiting, or which shall dwell or inhabit in a City or Town Corporate, and use or exercise any art, mystery, or manual occupation, shall and may yet have and retain the Son of any Freeman not occupying Husbandry, &c. to serve,
and

and be bound as an Apprentice, after the custome and order of the City of *London* for seven years at the least. It seemeth that the intent of the makers of that Statute, was rather to confirm; than repeal the customes of *London*, for it would never make the custome of *London* to be the example which ought to be persued, if it had had an intention to repeal it. And by the same reason, that the custome of *London* shall not be comprehended within the general words of one branch of the Statute, the general words of another branch shall not be extended unto them.

Thirdly, it is to be observed, that the Act, Statute of 5. *Elix.* hath a *proviso*, That this Act, nor any thing therein contained or mentioned shall not be prejudicial or hurtful unto the Cities of *London* and *Norwich*, or to the lawful Liberties, usages, customes, or priviledges of the same Cities. And howsoever it speaketh, only concerning the having or taking of Apprentices, yet by the whole scope of the Statute, which maketh the customes of *London* to be their directions in many things enacted by that Statute, it appeareth, that the intent was to preserve the

Of a Citizens

Customes of *London*, and not any ways to abolish them. For it should be very mischievous to the City, and would endanger the subversion and decay of it; if all Acts of Parliament by their general words should stretch to repeal the customs of *London*, in Case where they are somewhat opposite unto the Statute.

Rat. 4.
9. H. 3.
cap. 9.

Fourthly, upon the matter, there must be a repeal of the Statute of *Magna Charta*, cap. 9. which confirms all the Customs of *London*, the which shall not be done by general words in a Statute, because it hath been so often-times confirmed.

Quest. 5. As to the Fifth Question, *scil.* Whether the Trade of an *Upbister* be a Trade restrained within the Statute of *5. Eliz.* cap. 4. So that none can exercise it, but he that hath been an Apprentice by the space of seven years?

Rat. 1. It was agreed and resolved, That an *Upbister* is not a Trade within that Stat. For first, it is not a trade that is mentioned in any of the branches of the Statute, howsoever in all parts of the Statute there is mention made of sixty one several trades and mysteries. And if the Artizans which at that time were Assistants unto

changing his Trade.

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into the Committees for the expressing of all manner of Trades, and thought that the Trade of an *Upholster* had been such a Trade that required Art and Skill for the exercising of it, they would not have failed to make mention of it. Secondly, there having been two former Acts of Parliament, that is to say, the Statute of 7. *H. 7. cap. 17.* and 5. *Ed. 6. cap. 23.* made concerning *Upholsters*, it was not necessary that mention should be made of it in this Statute, and so it shall be intended that there was purposely an omission made of an *Upholster*, because there was sufficient Provision made for him formerly. Thirdly, the Trade of an *Upholster* doth not require any Art or Skill for the exercising of it, inasmuch as he hath all things made to his hand, and it is only to dispose them in order after such time as they are brought to him, as the Ticks of his Beds he borroweth from a Weaver, the Frames of his Beds and Stooles from the Joyners and Turners, his Iron-Rods and Nalles from the Smith, his guilding, and setting forth and adorning of his Beds and Stools from the Gilder and Painter; and so he is like to *Aesop's* Bird, which borroweth

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Of a Citizen

of every Bird a feather, his art resting
meerly in the overseeing and disposition
of such things, which other men work,
and in the putting of feathers into a tick,
and sowing them up when he hath done,
the which one that hath been an Appren-
tice unto it but seven days is able to per-
form. And the intent of this Statute was
not to extend unto any other trades, but
such as required Art and Skill for the
managing of them: and therefore it was
adjudged in the Exchequer upon an in-
formation against one *in the*
41. year of the Reign of the late Queen
Eliz. that a Collier-monger was not a
Trade intended by the Statute of *5.*
Eliz. because his art was in the selling of
Apples, the which required no skill or
experience for the exercise of it. So an
Husbandman, Tankard-bearer, Brick-
maker, Porter, Miller, and such like
Trades, are not within the Statute of
5. Eliz. cap. 4. so as none may exercise
them, but such a one that hath been an
Apprentice by the space of seven years;
for they are arts which require rather a-
billity of body than skill: But a Brewer
and Baker are within the Statute, be-
cause it concerneth the health of mens
bodies

bodies to have good Bread baked, and Beer brewed, and so it is fit that they should have skill for the exercise of them.

Fourthly, an *Upholster* being no such Trade within the Stat. of 5. *Elix.* as may compel one to be an Apprentice unto him for the space of seven years; for it is not mentioned within that branch that concerneth the compelling of men to be Apprentices. It is not any such trade as is within that branch, which compelleth men to be Apprentices for the space of seven years, before such time as they can exercise it; for none shall be within the branch that restraineth men to exercise their trades, where they have not bin Apprentices by the space of seven years; but such as are within that other branch, to compel men to be Apprentices unto them by the space of 7. years. *Quest. 6.*

As to the sixth Question, which is; whether the Court of the Mayor of *London* be such a Court of Record, as an information may be exhibited in it upon this Statute of the 5. of *Elix.* cap 4?

Sol.

It was answered and resolved, that it was. For it is exp. essed by precise terms, in one of the last branches of the said Statute, That the said Mayor, or o-
C 4 ther

ther Head-Officers of the Cities or Towns Corporate. shall have full power and authority to hear and determine all and every offence and offences, that shall be committed or done against this Statute, or against any branch thereof, as well upon Indictment to be taken before them in the Sessions of the Peace, as upon Informations Action of Debt, or Bill or Complaint to be sued or exhibited by any person, and shall and may by vertue thereof make process against the Defendant, and award Execution, as in any other case they lawfully may by any the Laws and Statutes of this Realm, and the Presidents have been alwayes accordingly. For in the 44. year of the late Queen *Elizabeth*, an Information was exhibited by one *Robinson* against *Toby*, in the Mayors Court of *London*, because he exercised the Trade of a *Cutler*, where he had not been an Apprentice by the space of seven years, and allowed to be well exhibited. So in the Case of one *Banister*, and Information exhibited in that Court, because he had exercised the Trade of a *Weaver*, where he had not been Apprentice by the space of seven years, was admitted good.

As

As to the seventh Question, which is, *Quest. 7.*
Whether the Informer may demand the
Moyety of the forfeitures upon this Sta-
ture, because in a branch in the latter
end of the Statute, it is enacted, *That*
all manner of Amerciaments, Fines, Issues,
and Forfeitures, which shall arise, grow, or
come by reason of any offences. or defaults
mentioned in this Act or any branch there-
of, within any City or Town Corporate, shall
be levied, gathered, and received by any
person or persons of the same City. or Town
Corporate, as shall be appointed by the
Mayor, or other Head Officers mentioned
in this Act, to the use and maintenance of
the same City or Town, in such case and
condition as any other Amerciaments,
Fines, Issues, or Forfeitures, have been
used to be levied, or imployed within the
same City or Town Corporate, by rea-
son of any Grant or Charter from the
Queens Majesty that now is, or any her
Graces Noble Progenitours, made or
granted to the same City, Burrough, or
Town Corporate, any thing, or clause
before mentioned or exprest to the
contrary notwithstanding?

It was answered and resolved, That the *Sol.*
Informer might well demand a Moyety;
for

for there being a former branch, that enacted, that the one half of all forfeitures and penalties expressed and mentioned in this Act other than such as are expressly otherways appointed, shall be to our Sovereign Lady the Queens Majesty, her Heirs, and Successors; and the other moyety to him or them that shall sue for the same in any of the Queens Majesties Courts of Record, or before any of the Justices of Oyer and Terminer, or before any other Justices or Presidents and Council before remembered, by action of Debt, Information, Bill of Complaint, or otherwise: The Informer may demand his Moyety, by virtue of this branch; and the subsequent branch which gives the Forfeitures unto the Mayor, shall be taken only of the forfeitures which are given to the Queen, and not of that which is given to the Informer, who is the means whereby the other Moyety is brought to the Mayor, and other Officers.

*The Custome of London Touching
Forreign Attachment.*

Iohn Tenant a Citizen of London is indebted forty pound by specialty unto one other Citizen of London, which said Citizen is likewise indebted unto one Robert Hayden, another Citizen of London in forty pounds upon a simple contract. The Citizen so indebted unto Hayden died intestate. Thomas Spink taketh Letters of administration of the goods and chattels of the said intestate. Tenant after the day of payment of his forty pounds promiseth Spink in consideration that he will forbear him the payment of the said forty pounds, by the space of two months to pay to Spink the said forty pounds.

Spink forbeareth Tenant accordingly, but the forty pounds is not paid according to promise.

Afterwards the debt due by Tenant, is attached in his hands according to the custome of London of Forreign Attachments for the debt due by the intestate unto Hayden, Spink bringeth his action

Of Foreign Attachments.

on upon the case against *Tenant*, for not paying the 40. pounds according to his word who sheweth in his Plea in Bar. That the Debt due by him unto the Intestate was attached according to the Custome of Foreign Attachments. And upon this Plea in Bar, *Spink* demurreth in Law.

The Questions in this Case are,

1. Whether this Debt of the Intestate being only a Debt due upon a simple Contract, be such a Debt of which a Foreign Attachment may be made according to the custome of *London*?
2. Whether the custome of foreign Attachments may hold in this Case, Inasmuch as by the Statute made in *31. Ed. 1. cap.* the name of *Administrators* was created, and before that Statute *Letters of Administration* were never granted?
3. Whether there being a Foreign Attachment of the Debt due unto the Intestate, after the not performing of the promise, and Title of action given unto *Spink* the Plaintiff, be a dispensation with the promise, so as now the

Of Forreign Attachments.

the action faileth upon the promise
for not paying the money.

As to the first Question, which is, *Quest. 1.*
Whether for the debt, being a debt due
only upon a simple contract, a forreign
Attachment may be used or no?

It was agreed and resolved, that a
forreign Attachment might well be su-
ed for it: For by the custome of *London*,
the Executor or Administrator being
chargeable for a debt due by the Testa-
tor, or Intestate upon a simple contract,
as well as upon a specialty, a Forreign
Attachment may be sued as well for that
debt, as for a debt due upon Specialty.
And howsoever the *Kings Bench*, or any
other Court of *Westminster*, be not
bound to take notice of this particular
custome of *London* in charging the Ex-
ecutors, or Administrators upon the
simple Contract, nor to give judgement
according to the custome, yet when
judgment hath been given according
to that custome, and that judgement
appeareth judicially unto the Judges by
the Record: Now they ought to al-
low the custome, and give their judge-
ment

ment according to that custome in af-
firmance of the judgment given in *Lon-*
Mish. 39 *don*. But it was agreed, that if there had
Eliz. 40 not been any debt due by the Intestate
intestatus unto *Haydon*; Now howsoever there had
Pala. been an Attachment made in *London* of
the debt due by *Spink* unto the Intestate,
and a judgement given upon it, yet
might the Administrator have relieved
himself by way of Denial, and Traverse
that there had been any debt due by the
Intestate unto *Haydon*.

Quest. 2. As to the second Question, which is
Whether the custome of Forreign At-
tachments in *London* may hold as this
Case is?

It was agreed and resolved, That it
may and doth well enough hold. For
howsoever that none was chargeable at
the Common Law by the name of an
Administrator, inasmuch as by the Sta-
tute of 31. *Ed. 3. cap.* No accusation lay
against an Administrator by that name;
And that *A custome may not commence*
since the making of that Statute; yet in-
asmuch as he was chargeable at the Com-
mon Law as an Executor for his Admini-
stration,

stration, so that the name of the charge is only changed, and yet in substance is all one (For every Executor is an Administrator and the pleading is upon an action brought against an Executor, that he never was Executor, nor ever administered as an Executor. And an Administrator hath the quality and office of an Executor.) Therefore the custom of Forreign Attachments will hold against an Administrator, as well as against an Executor.

As to the third Question which is, Whether the Forreign Attachment for the debt due unto the Intestate after the promise broken be such a dispensation with the promise, that no Action now lieth for the Administrator upon the breach of the promise? *Quest. 1.*

It was agreed and resolved, that the promise was dispensed with, and no action lay upon the breach of it; for the debt due by *Tenant* unto the Intestate; which was the ground, and cause of the promise made unto *Spink*: the Plaintiff is taken away by the judgement had in *London* upon the custome of Forreign Attach-
Attach-

Attachments, *Es sublatō fundamento sal. lit opus*. And therefore if after the promise broken there had been a Recovery had of the principal debt by the Plaintiff as Administrator, or otherwise, there had been a Release made unto the Defendant. Now the Action upon the Case upon the promise would have failed, inasmuch as the debt, which was the consideration, and ground of the promise is gone, and so the dampnification which he should have had by not performance of the promise faileth,

*Mieb. 37.
38.
Eliz. Rot.
414.*

And agreeing to this resolution was the Case of one *Bardston*, and *Hampfr* cited to be adjudged, whereupon an accompt, he that was found in Arrearages upon a consideration of forbearance by one moneth, promiseth payment of them. And those Arrearages thus due being attached in the hands of the Accomptant after the promise broken; It was held that no Action might afterwards be maintained upon the breach of promise,

*The Case concerning the Prisage of
Wine.*

King Edward the third in Es. Term.
9. Jac. Rex
Roll. 163.
the first year of his Reign
doth by his Letters Pa-
rents bearing date the same
time, grant unto the
Mayor and Commonalty of
London, that no prisage shall be of a-
ny of the Wines of the Citizens of *Lon-
don*. But they shall be free, and dis-
charged from the payment of all man-
ner of Prisage. *George Hanger* being a
Citizen, and Freeman of *London*; and
Rehent within the City, fraughteth four
several Ships with Merchandize to be
transported beyond the Seas, the which
four Ships being disburdened of the said
Merchandize are laden with Wines.
Two of the Ships came up the *Thames*
at *London*, and before any unbulking of
them, *George Hanger* maketh *Frances*
Hanger being his wife his Executrix, and
dieth. Afterwards the other two Ships
came up to *London*. *Sir Thomas Waller*
be-

Concerning Prifage of

being cheif Butler of the King by virtue of Letters Patents made unto him, Demanderth the payment of Prifage of the said *Frances Hanger* for the Wines in the said four Ships, that is to say : To have of every of the Ships one Tun before the Mast, and one other Tun behind the Mast. She denieth the payment of it ; whereupon the said Sir *Thomas Waller* as chief Butler exhibiteth his Information into the Kings Bench against the said *Frances Hanger*. Whereunto the said *Frances* pleaderth a special Plea in Barre, shewing the whole matter as abovesaid upon which Sir *Thomas Waller* demur-reth in Law.

you
should
read *Frances*
all the
way.

The Questions of this case are two.

The first is, whether for the Wines which came up the *Thames* in the two Ships before the death of *George Hanger*, any Prifage ought to be paid unto the King or not ?

The second is, whether any Prifage ought to be paid for the Wines, which were upon the Sea in the Ships before the death of the said *George Hanger* but came not up the *Thames* until after the death of *George Hanger* ?

The

Radcliffe Trustees

The case was argued at several times by Sir *Henry Mountague* Knight, then Recorder of *London*, now Lord chief Justice of the Kings Bench, *Thomas Co-* Counsell ventry then Utter Barister now Solicitor General unto his Majesty, and *Francis Mingay* an Utter Barister of the Inner Temple on the behalf of *Francis Hanger* and by *Henry Tolverton* then an Apprentice of the Law of *Grain-Inn*, and in the case now Attorney General unto his Majesty, and *Thomas Cress* of the same Inn likewise an Apprentice of the Law on the part of Sir *Thomas Waller*.

Likewise it was argued at several times Judges by the Judges of the Kings Bench, that is to say, first by Sir *Thomas Fleming* Chief Justice of the Kings Bench, Sir *Christopher Tolverton*, Sir *David Williams*, and Sir *John Crook*; and afterwards by Sir *Edward Cook* Chief Justice of the Kings Bench, Sir *John Crook*, Sir *John Dodridge* and Sir *Robert Houghton*.

And Sir *Edward Cook*, Sir *Christopher Tolverton*, Sir *David Williams*, and Sir *John Dodridge* were of opinion, that judgement ought to be given for *Francis Hanger*, against Sir *Thomas Waller*; for they conceived upon the reasons

Four of the Judges for the Defendant.

Concerning Prifage of

following, that no Prifage ought to be paid, neither for the Ships that came in after the death of *George Hanger*, nor for the Ships that came in before the death of *George Hanger*, but they all were to be discharged of the payment of Prifage by virtue of the said Charter made by *Edward* the third unto the Mayor and Commonalty of *London*.

First in regard that these Wines thus in each of the four Ships aforesaid, remained (notwithstanding the death of *George Hanger*) to be still the Wines of *George Hanger*; for if *Frances Hanger* the Executrix were to bring an Action for the recovery of them, she should bring an Action as for the Wines of *George Hanger*, if *Frances Hanger* should be wained or attainted of Felony or Treason, those Wines should not be forfeited, inasmuch as they are not the Wines of *Frances Hanger*, but of *George Hanger*. If a Judgement in Debt or other Action should be had against *Frances Hanger* as Executrix of *George Hanger*, these Wines should be taken in execution as the Wines of *George Hanger*, and so these Wines thus brought in before, and after the death of *George Hanger*, continuing as yet the Wines of *George*

George Hanger, to be recovered as his Wines, to be taken in execution as his Wines, and to prevent a Forfeiture, because these Wines shall be said to be the Wines of *George Hanger*, whereby they may be protected, and priviledged from the payment of Prilage within the words, intent, meaning of the before recited Charter made by King *Edward* the third, which pointeth rather at the Wines then at the person of *George Hanger*.

Secondly, in regard that *Frances Hanger* being the Executrix of *George Hanger*, is the representative person of *George Hanger* as to these Wines, so that such Priviledges and Immunities as *George Hanger* was to enjoy if he had been living, the same shall *Frances Hanger* have benefit of after his death. And therefore notwithstanding *Frances Hanger* had been a Nun, and so a dead person in Law to all intents and purposes, yet she being made an Executrix and so the representative person of the said *George Hanger*, shall be enabled to sue, and be sued, as concerning the personal Estate of the Testator, so far as *George Hanger* himself might sue, or be sued. And if *Franc*

Concerning Prifage of

M. A. 4. m. *M. Hanger*, being a Neif had been made Executrix now she being the representative person of *George Hanger*, may well enough sue her Lord unto whom she is a Neif Regardant, or any other person whatsoever, and the being of a Neif shall not be any disability unto her, as to her office of Executrix-ship. The same Law would have been if *Frances Hanger* had been wained and afterwards had been made Executrix; for she putting on the person of *George Hanger*, and representing him, shall be clothed with the same Priviledges and Abilities as he was, and so *Frances Hanger* being enabled by the common Laws of this Realm, to sue, and to be sued, although she had been a Nun, a Neif, or a wained person, because she represented the person of *George Hanger* whose Executrix she was, shall be likewise capable of this priviledge of the payment of Prifage for the Wines of *George Hanger*, as *George Hanger* was.

Act, 3.

Thirdly this Charter made by King *Edward* the third, being a Charter only to discharge the Citizens of *London* of the payment of Prifage, and not a Charter whereby the Prifage of the Citizens of *London*

Louden is granted unto others, shall have a liberal construction, and not be streined unto a special intent as a Patent of charge shall be; for it is evident by divers cases in our Books, that *Frances Hanger* being an Executrix, shall be taken to be within the remedy of an Act of Parliament, to discharge her self of a burden imposed upon her in respect of *George Hanger* her Testator, notwithstanding there was never so much as any mention made of her as Executrix, in the Act of Parliament. And therefore *Frances Hanger* being an Executrix, shall have an attaint upon the Statute of 23. *H. 8.* *Elix Dy chap. 3.* to discharge her self of a false Verdict given against *George Hanger*, whereby his Goods are to be charged, and yet she is not named in the Act of Parliament. So *Frances Hanger* being an Executrix, shall have a Writ of Error upon the Statute of 27. *El. chap. 3.* in the Exchequer Chamber, to discharge her self of an Erroneous Judgement given into the Kings Bench against *George Hanger*, whereby his Goods are subject to an Execution. Likewise if *George Hanger* be Out-lawed upon a Writ of *Cap. ad satisfaciend.* awarded upon a Judgement

Concerning Prifage of

ment given in Debt, or other perfonal Action againft him, *Frances Hanger* as Executrix of *George Hanger*, fhall take advantage of a general pardon made by Act of Parliament in the life of *George Hanger*, and fhall be fuffered to plead it, and to give fatisfaction of the judgement given againft *George Hanger*, whereby ſhe may be enabled to take benefit of the pardon; the which being fo, that *Frances Hanger* is a perfon capable to difcharge her ſelf of a falſe Verdict of an Erroreous Judgement, of an Out-lawry pronounced againft *George Hanger* her husband where the Statute by precise words doth not relieve her, *a fortiori* fhall *Frances Hanger* in the caſe at the Bar, be enabled to difcharge her ſelf of the priſage of theſe Wines, within the Charter of *Edward the third*.

Rat 4.

Fourthly, by the ſame reaſon, that the Butlarage ſhall be paid by the Executors or Administrators of an Alien, for the Wines brought into *England*, in caſe where the Alien owner of the Wines do die before ſuch time as the Ships are unladen, and way ſhall not be given to make an evaſion to the payment of Butlarage, upon an averment that the owner of the Wines

Wines.

Wines is dead before the unbolcking of the Ships, so by the same reason pri-
lage shall not be paid for the Wines of *George Hanger*, who dyed before such time as
the Ships came in ; for those Wines
shall continue the Wines of the Alien, to
make his Executors (subject unto the pay-
ment of Butlarage ; so these Wines shall
remain the Wines of *George Hanger*, to
free *Frances Hanger* his Executrix from
the payment of pri-
lage.

Fifthly, there being nothing done in *Rat. 3.*
the case at the Bar, to prevent *George Hanger* whereby his Wines should be
made incapable of the discharge of the
payment of Pri-
lage within the Charter
granted by King *Edward* the third but
only the death of *George Hanger* before
the disburdening, and unlading of his
Ships ; and this being only the Act of
God, which by no power of man can be
resisted, nor wit prevented, shall never
turn him to that prejudice that a charge
now shall be imposed upon his Wines,
the which ought not to have been, if
George Hanger had over-lived the time
of breaking the bulk ; for it is a Maxim,
held, and a principle of the common
Lawes of the Realm, that the Act of
God

Concerning Prisage of

God shall never prejudice in case where there is not any Latches in the party, and upon this reason is it that if one that is impleaded hath cause of privilege, because he is the menial Servant of the Lord Chancellour, he shall not be prevented of privilege by the death of the Lord Chancellour, but he shall enjoy it, that death notwithstanding; likewise it would be a great discouragement to the Merchants, to hazard their own lives in fighting against the Pyrates, and in being upon the Seas when their deaths shall subject them to the payment of Prisage.

Art. 6.

Sixthly, in the case at the Bar, there are four times to be observed; the first of which is the time of the fraughting of the Ships, and the sending them out of *England* beyond the Seas; the second is the time of the arrival of the Ships, and the unlading, and disburdening of them beyond the Seas, the third is the time of the lading of the Ships with Wines, and the returning of them for *England*; the fourth is the time of the arrival at the Port in *England*, and the unlading of them here; and three of these times were passed in

Wines.

here in the life of *George Hanger* when he was
a member of the City, and a Citizen as
others are, for all the four Ships, and
part of the fourth time also for two of
the Ships; for at the time that the Ships
were Fraughted and sent out of *England*
for the intent to bring in these commodi-
ties, *George Hanger* was a Citizen; so when
the Ships arrived in the Port beyond the
seas, and unladed themselves to receive
the Wines for which they went, he
continued a Citizen. Likewise when
the Ships were laden with Wines, and
returning to the coasts of *England*, the
Mand of Heaven had not as yet disfran-
chised him from being a Citizen, and
a member of the City of *London*. And as
for two of the Ships, the said *George Han-*
ger had his abode here until such time
as they were in the Port at *London*, safe
from being swallowed by the surging
waves of the Sea, secure from the sur-
prizing of the desperate Pyrates; the
which being so that three of the four
times as to all the four Ships were past
during the time that he was a member
of the City, and also part of the fourth
time as to two of the Ships, it is reason-
able to think that these Ships shall partici-
pate

Concerning Prifage of

parte of Immunity and Priviledge, to be discharged of the payment of prifage, which is granted by the Charter made by King *Edward* the third notwithstanding that the last time was not committed before his death; and the more especially also, because the law hath such regard unto the commencement, and beginning of a thing, and will have respect unto it, notwithstanding that there be long distance of time between the execution, and consummation of it. And therefore where a servant having an intention to kill his Master, doth depart out of his service and long time after his departure out of his Masters service doth kill him, that is petty treason in the servant; in regard of the retrospect which the Law hath to the first intention of the servant, when he was in his Masters service; and yet if you respect the time of the murder committed, without regard had unto the first time, it cannot be petty treason, because the servant was out of his service at that time.

33. Aff.
Parl. 7.

Rit. 7.

Seventhly, it is to be observed, that this Charter to be discharged of the payment of prifage granted by King *Edward* the third, was granted unto the Mayor and

and Commonalty of *London*, which is a body that alwayes continneth, and never dieth; and so howsoever that *George Hanger*, unto whom (as unto a member of that body) the priviledge of that Charter is distributed, be dead, and cut off from that body, yet in so much that the body politique of the Mayor and Commonalty unto whom the Charter was made liveth, the Priviledge and Immunity of *George Hanger* to have his Wines discharged of the payment of priſage will live, and continue in that body notwithstanding that *George Hanger* be dead.

Eightly this Charter being a Charter Reg. 31 made for the advancement and good of Merchandize and trading (which are as it were the Blood which giveth nourishment unto the politique body of the Kingdome) is to have a favourable and benigne construction, whereby trading may be the better supported and maintained; and the life of the State longer continued; and therefore where King *Edward* the third in the third year of his Reign, granted unto the Merchants of *Almage, France* and *Spain* that they should come safely, and securely with their Merchandize into *England*, and should

Concerning Prifage of

should be free from Pontage, Murage
and such other Tolles, this Grant was
allowed to be good, and received an
opinion according unto the Law
of Merchants, which is the Law of Na
tions; and howsoever it would not be
good by the strict rules of the Common
Law, because the Merchant-strangers
were not a Corporation able to take
yet it was admitted sufficient by that
by *the mercatorians*, according to which
in some cases of Merchants the Judge
of the Common Law ought to give the
Judgement, wherefore in the case at
Bar, this Charter concerning the City
of London, which is the University of Mer
chants, and this case concerning *Greg
-Hanger* which was a Scholar trained
in this School, and had been matricu
lated in this place, the Judge are to find
and give their Judgement so, as the Un
iversity and Scholars of it, may receive
the better encouragement to proceed
and may not be disheartened to dis
continue their courses intended, from Merchants
trading and Trading, by reason of the strict
construction of Charters which give
unto them Immunities, and Privileges
Judges,

Wines.

Ninthly and lastly, this very case received formerly the resolution of three Barons in the Exchequer, upon an Information exhibited there by Sir *Thomas Waller*, that *Frances Hanger* should be discharged of Prifage for the Wines in all the four Ships; whereupon Sir *Thomas* discontinued his Information, and exhibited it *denovo* in the Kings Bench, whereby he would take the opinion of this Court likewise; and there having been former opinion conceived for the discharge of them, it is more agreeable with reason to have this opinion confirmed than opposed.

But Sir *Thomas Fleming*; Sir *John Crook*, and Sir *Robert Haughton* seemed upon the reasons hereafter ensuing, that Judgement ought to be given for *Thomas Waller*, and that prifage ought to be paid by *Frances Hanger*, both for the Wines wick were in the Ships that were arrived before the death of *George Hanger*; as likewise for the Wines which were in the two Ships which were upon the Sea at the time of the death of *George Hanger*; howsoever by way of advice they wished that for the Wines in the Ships which were come home during

Art. 9.

T. 2

3

Three
Judges of
Contrary
opinion.

Concerning Prifage of

ring his life, the payment of prifage ought not to be preſſed by Sir *Thomas Waller*.

R. I. First, in regard the Charter extendeth only to diſcharge the Wines of ſuch a perſon as is a Citizen of *London* of the payment of prifage, and *George Hanger* being dead, and ſo a Citizen of the bea-vedly *Jeruſalem*, may not be longer ſaid to be a Citizen of *London*, and ſo not within the compaſs of the Immunity granted by the Charter.

Secondly, this priviledge to be diſcharged of the payment of prifage, is in reſpect of the perſon who is the owner of the Wines, and not in reſpect of the Wines themſelves and then there being a remotion of the perſon unto whom the exemption is tyed, there is a remotion of the exemption it ſelf; and therefore notwithstanding a Tenant in ancient Demeſne, be by the Common Lawes of this Realm to be diſcharged of the payment of Toll in all Faires, and Markets, yet if the Tenant in ancient Demeſne make his Executors, and die, the Executors for the Goods of the Teſtator are to pay a Toll, in ſo much, that it was only a perſonal priviledge which dieth together with the perſon.

Thirdly,

Wines.

Thirdly, this Charter bereaving the King of the payment of prisage which is a Flower of his Crown, ought to have a strict construction, so as none may take benefit of it, but only such as are within the precise words of the Charter; wherefore *George Hanger* being dead, and so no more a Citizen of *London*, howsoever the Wines in the Ship may be said to be the Wines of *George Hanger* to a special intent, that is to say, for the payment of his Debts, and the performance of his Legacies according to his true intendment expressed in his Will, yet may they not be said to be the Goods of *George Hanger* to every intent, in so much that *Frances Hanger* the Executrix hath the disposition of them according to her will, and pleasure, and the Poet saith, *Da tua dum tua sunt, nam post mortem tua non sunt*; and they not being the Wines of a Citizen to every intent, but only to a special intent, may not be said to be capable of the discharge of payment of prisage according to the Case that hath been adjudged, that where the King by his Letters Patents doth grant a. H. 42. the Goods, and Chattels of all Felons and Fugitives unto a common person, now
d the

Concerning Prifage of

the Parentee, by verrue of this grant, may not claim the Goods, and Chattels of one that is a Felon of himself, in so much that he is a Felon only to a special intent; and this being a Flower of the Kings Crown, shall not pass by general words.

Fourthly, Prifage being a thing which is not due until such time as the bulk be broken; now forasmuch as *George Hanger* was dead, and so was disfranchised before such time as the duty accrued, the Charter shall not extend to discharge the Wines in the hands of the Executrix of the payment of Prifage.

Sir H.
Calthrops
report and
opinion.

And so having given you a taste of the opinion of the Judges upon the main case: I will descend to the other matters considerable in this case, upon this Charter; and for better order and methods sake, I will divide it into the parts hereafter following, that is to say.

First, what Prifage is, and to whom due, the nature of it, and the diversity between Butlerage, and Prifage.

Secondly, what is the cause, and ground why the King hath Prifage.

Thirdly, at what time prifage shall be said to be due.

Fourthly,

Fourthly, whether a grant or discharge may be made by the King of Prilage.

Fifthly, whether the Charter of discharge unto the Mayor and Commonalty of the payment of Prilage be good, when the grant is made to the Mayor and Commonalty, and the benefit distributed unto the natural persons and the ground of the making of this Charter.

Sixthly, what persons shall be discharged of the payment of Prilage within the words of the Charter which saith, *Quod de vini Civium nulla prisa fiat.*

Seventhly, what Wines shall be said to be discharged of the payment of Prilage within the words of the Charter.

As to the first, Prilage is a certain duty which the King and his Predecessors by themselves, or their Officers by a custom (time out of mind of man) hath used to take for the provision of his household of all *English* Merchants of all Wines whatsoever, which the said *English* Merchants bring from beyond the Seas into the Coasts of *England*. In which said description it is first observed, that it is a duty due from the subject unto his Majesty, and not a voluntary gift of the subject unto the King. Hereupon it is that in

What prilage is.

Concerning Prifage of

H. 4. 3. in the Patent-Roll in the Tower you shall find prifage termed by the name of *Regia, & Regia prifa*; for that it appertaineth and is due unto the King of common Right; and being a Flower of his Crown, may not belong unto any man else but by especial Grant. Secondly, it appeareth that it is called a certain duty, because it is manifestly certain, what the King shall have out of every Ship, both in respect of the time when he shall take it, in respect of the place where he shall have it, and in respect of the quantity which he shall have. For as to the time when he shall take it, it is upon the breaking of the Bulk of the Ship, and not before; for if a Ship come into the Port laden with Wines, and the Bulk of her is not broken, now may not Prifage be demanded of her. And as to the place where the King shall take this prifage, it is ascertained by a Book-Case, where it is said, That the King shall take one Tun behind the Mast, and the other before. And as to the certain quantity which the King is to take, it is manifest by divers ancient Records; for if a Ship have ten Tun in her, and under the number of twenty Tuns,

6. E. 3. 5.

20. Ric. 2.
Rot. Pat.

Wines.

Tuns, then the King is to have one Tun only; but if the Ship containeth twenty Tuns and more, then the King is to have two Tuns, the one to be taken behind the Mast, and the other before the Mast, the King paying for the portage twenty sh. and by reason of these certainties you shall find in the Parent-Rolls in the Tower 18. E. 1. that it is called, *Certa prisæ*. Thirdly, it is to be observed that is not a duty newly encroached, for it hath by custom (time out of mind of man) been taken; for the ancientest Records now remaining with us do make mention of the payment of it; for in the Par. Rol. aforementioned being in the 40th year of Henry the third it is spoken of; and *Fleta* who wrote in the beginning of E. 1. his time, hath not been silent in declaring the nature of prisage; and in the 15. E. 2. *Rastall* Esteats Sect. 22. an ordinance is made amongst other things, that the Butler of the King for the time being, either by himself or his Deputy shall enroll the Wines of prisage, how many times he hath taken them, the testimony of persons of whom the price was had, where, and when, and the Customers of England shall be charged

18. E. 1.

Rot. Par.

Fleta. Lib.

2. cap. 22.

Concerning Prifage of

according as they are assigned for the gathering of customes within certain bounds, that they twice yearly shall certifie the Treasurer and Barons how many Ships have arrived within their bounds, &c. And how many Ships arrived of whom the King did take prisage of Wine, and how many Tunnes, and in what Ships the King did take two sh. for the Tun. And for the other price. And in the Par. Rol. extant in 20. R. 2. you may see the Record speak in this manner.

20. R. 2.

Rol. Par.

Memorandum. quod Rex habet ex antiqua consuetudine de qualibet navi mercatoria applicante infra aliquem portum Regni Anglia duo denia vini, &c. All which shew the antiquity of it. Fourthly, it is said of all *English* Merchants to make a difference between those that are Merchants, and those that buy Wines beyond the Seas for their own private provision. Secondly to make a distinction between the *English* Merchants and the Merchant-strangers, for Merchant-strangers by a Charter made unto them (called by the name of *Charta Mercatoria*) in the one and thirtieth year of E. 1; his Reign are discharged of the payment of prisage, in recompence, and lieu of which

Wines.

which Immunity granted unto them, the Merchant-Strangers by way of thankful restitution granted unto the King and his Successours, that he should have two sh. of every Tun of Wine brought in by them within forty dayes after it is brought into the Port, the which two sh. is called by the name of Butlerage, because the Kings Chief Butler by reason of his Office is to receive it. And those subject of the Kings who do buy Wines beyond the Seas for their own spending, without any intention to Merchandize, ought not to pay prisage for those Wines. Sixthly, it is expressed of all Wines brought from beyond the Seas; for that if Wines should be made in *England*. as in times past they have been (as it appeareth by an ancient Record in *Windsor-Castle*, where it is said that the Parson had ten pound for the Tythe of Claret-Wine made there) and they should be transported from one Port to another to be sold, no prisage shall be paid for them. Lastly, it is described which hath used to be taken, and not which hath used to be paid by the owners, and Merchants of the Wines, and the *Etymology* of the

Concerning Prisage of

word importeth as much. For *Prise* being the Latine word for prisage, hath it's name of *prendere*, and is no more than *Prisel*, which is taking, and is a Participle of the word *Prendere*, which may be applied to all manner of takings; howsoever here it is only limited to the taking of Wines.

2.
The
ground
of paying
the K. pri-
sage.
As to the second part, which is what is the cause, and ground of the payment of prisage, there is not any Record to be seen which manifesteth the original cause of the payment of it; but it is probably conjectured that for as much as the King of *England* is King of the narrow Seas, and hath been alwayes at a perpetual charge in the maintaining of Ships for the defence of his Merchants, and protecting of them from the cruel spoile of the Pyrates, and in scouring the Seas to make their passage the more secure; therefore in recompence and satisfaction of this care, and charge, the Merchants have always used (time out of mind) to give an allowance unto the King, and his Officers for the taking of this prisage of Wines for the better provision of his household, (the which allowance, and usage being continued time

Wines.

time out of mind, hath made it to be a duty unto the King, and likewise because the King hath used to take one Tun out of ten Tuns, and two Tuns out of twenty Tuns (for in ancient time, the Ships that went for these Wines being no great Voyage, were not of much greater burden) some have conceived that this was in nature of a Tythe, paid unto the King, and as the particular Pastor, which ministreth spiritual things for the Food of the Soul, hath of right the tenth part of his clear gains due unto him: So the King in that proportion being *Pater patriæ*, and the general Pastor of all his Subjects, protecting their lives and goods from violent oppression upon the Seas hath received, and taken the tenth part of the Wines brought in. But this only conjectured, and therefore I cannot warrant it to be a sure Foundation to build on.

As to the third, which is, at what time prisage is said to be due. I do likewise find some doubt to be made of it; for some Judges (unto whose Learning, and Judgement because of their Eminent parts, and singular industry, much reverence is to be ascribed) have been

3.
When pri-
sage is
due.
Sir Ed.
Crook, Sir
John Dod-
of dridge.

Concerning Prisage of

of opinion that before such time as the bulk of the Ship be broken up, or that it be arrived at the *English* Port, prisage is due, and therefore if a Ship after such time as it is come up into the Haven, finding that Wines will not bear any price, doth before the Bulk of the Ship be broken, depart out of the Harbour, and go back beyond the Seas, and there vend those Wines. The King, this notwithstanding, may require his prisage at the Merchants hands; for the narrow Seas being within the Allegiance of the King of *England*, as it appeareth by divers of our year Books, so soon as the Ships come upon them, there is the duty of prisage accrued unto the King, whereof it doth not lie in the power of the Merchant to defer him; and also the very nature of prisage being to have one Tun before the Mast, and one other Tun behind the Mast, sheweth that the King hath an Election to take his Tuns of Wine where he will, the which may not be, if the duty of prisage should arise out of the breaking of the Bulk, for when the Bulk is broken, how doth it appear which is the Tun before the Mast, and which is the Tun behind the

Mast

Wines.

Mist? So as the King may have the Election to take his prisage, as the Law giveth it unto him; and they are of opinion, that if a Ship come into the Port laden with Wines, that the King is not to expect his prisage where the Merchant will unlade his Wines; for it being a certain duty accrued unto the King upon the coming into the Port, he may take it at the Port, and is not bound to wait upon the Merchant from one Port unto another, untill he will or can unlade his Ship: But the residue of the Justices which argued in this case, were of opinion, that prisage is not due, untill the Bulk of the Ship be broken; so that if the Merchant after his arrival at the Port, will go unto another Port, the King may not take his prisage before such time as they come unto that Port where they unlade; and their opinion was grounded upon the reasons following, that is to say; First, because the reason and ground of the payment of prisage, being the security which the Merchants enjoy by, and through the care and charge of the King upon the narrow Seas, they ought to be secured of that benefit, before such time as they

Concerning Prifage of

they shall be forced to pay the duty and before the breaking of the Bulk of the Ship, they are not ascertained of their safe conduct, inſomuch that howſoever they be in the Port or Harbour, yet they may have cauſe to put out into the Main again, as if they were driven in there through danger of Pyrates, or violence of Tempeſts, their Coqueſhewing their courſe to be bent unto another place, and it is no reaſon that the K. ſhould take his duty before ſuch time as the Merchant be aſſured of his protection. Secondly, incertainties are always odious in Law; for they are the Mother of conſuſion, whereas the Law expecteth and requireth order: And if the time expreſſed be alwayes ambiguous, or doubtful, it is careful in the determining and ſetting of it down certainly; and for the moſt part where it is left to her conſtruction, ſhe giveth the longeſt time for the doing of it, whereby beſt advantage may be given unto the party which is to do it, the which may be manifeſt by divers inſtances of caſes ſet down in our Books which I do purpoſely omit to avoid too much prolixity; Wherefore it being the moſt

Wines.

most certain, and the most equal time both for the King and Merchant to have the prize taken when the Bulk of the Ship is broken; the Law, to whose construction it is left, shall rather ordain the taking of it to be then, than at any other time; for if the Law should say, that it is a duty presently upon the coming upon the narrow Seas, it should say, it is a duty before such time as the Merchant can assure himself they are his Wines to dispose, insomuch that before the coming into Harbour, they may be swallowed up by the Seas; or he may be dispoiled of them by Enemies unto the King, or Rebels unto the State. And if the Law should determine the duty to the King when the Ships are safely in the Harbour, there might a great inconvenience ensue upon this Judgement, because it may very well be, that their course was intended to another place, and they were driven in there only by misadventure, and it would be mischievous to have the Ship rifled, and their Wines disordered, before they had attained unto the intended Haven. Thirdly, this opinion is consonant unto the Judgements in former times; for it

Concerning Prifage of

456. *Kennistun*, was ruled in the case of one *Kennistun*,
 200. and *Boggius*, in the fifth year of his
 Majesties Reign that now is, that prifage
 shall not be said to be due until such
 time as the Bulk be broken, and the Ship
 unladen. And likewise there is a Re-
 cord, by which it appeareth, that the
 King is to have Prifage of every Ship
 bringing VVine into *England* and un-
 laden thereof, so as if it be not unladen
 then the King by that Record is not to
 have Prifage. Besides, it appeareth by
 the Record concerning the payment of
 Butlerage by the Merchant Aliens, that
 the King is to have there two shillings
 of them for every Tun within forty
 dayes after the unlading; so as the Law
 pointeth at the unlading; wherefore
 this Prifage differing only because the
 VVines are paid *in specie*, it shall be an
 Argument thus far to perswade, that the
 Law will not appoint the time of taking
 the Wines *in specie* before the unlading,
 when it giveth for the payment of the
 two shillings until forty dayes after the
 unlading.

4. Fourthly, it was resolved that how-
 Whether soever Prifage of Wines is a Flower of
 the King the Crown, yet is it not such an insepar-
 may able

Wines.

able Flower of the Crown; but that it ^{grant, or} may well enough be granted over, for it ^{discharge} is a matter of profit and benefit which ^{Prisage.} is to redound unto the King, and it is not of the nature of a Purachans meerly, for that it is inseperably annexed in privy unto the person of the King, that it may not be granted over. And accordingly it was resolved in the case of Sir *Thomas Vavasor*, who married one of the Daughters of Alderman *Houghton*, who had a Grant of the Prisage made unto him. And in the 15. of E. 4. in the Patent-Rolls it appeareth, that one *Fitzherbert* had ^{15 E 4.} a Grant made unto him, and by the same ^{Rot. Pat.} reason that a Grant may be made of Prisage, *a fortiori* may there be a Grant made unto certain persons to discharge them of the payment of it; for it is easier to make one capable in point of discharge, than by way of Grant, and the Charter made to the Merchants Strangers for the discharge of the payment of Prisage. And the Statute of 1. H. 8. cap. 5. sheweth that a Charter made for the discharge of Prisage, is well, and allowable,

Fifthly, this Grant made unto the Mayor

Concerning Prifage of

Grant to Mayor and Commonalty, and their Successors, *Quod de vinis civium nulla prifa fiat*, is good enough, and the grant may well enough be made unto a body politique, and the benefit of the Patent distributed unto a body natural; for Patents of that nature are usual in the year-Book of the Common Laws of this our Realm, and never any exception taken unto them when there hath been less warrant in reason to make them good, then there is for this our Patent which we have here in hand: For the City of *London* being the Metropolitan City of this Land, the which may well be called the Heart and Epitome of the whole Realm, and the Chamber of the King, the Merchants whereof do fill the Coffers of the Prince by their customes, and do supply the Subjects of his Majesty with all manner of necessities, do increase the honour of their Nation by their Commerce, and Traffique abroad, and do strengthen the whole body of it by shipping, which are termed the wooden Walls. It is reason that all Charters made in their favour, and giving them Immunities and Priviledges, should receive a benigne interpretation, and the more

more especially also, because at this time all Merchants strangers had a Charter of discharge for the payment of prisage, but only that they were to pay two shillings in the Tun; and so if the Merchants of *London* should not have had a Charter of discharge, they would have been discouraged from trading for Wines, because the Merchants strangers would have been able to have afforded their Wines at easier rates, because they were freed of some part of that charge, which the English Merchants were burthened with.

Sixthly, as to the Declaration, what persons shall be discharged of the payment of prisage within the words of this Charter, it will be the better manifested by shewing the distinctions and degrees of Citizens which are to be found, for there is mention made of five manner of Citizens. The first of which is, he that is a Citizen of *London*, for the bearing of offices in the City, and such special intents, because he is a Freeman of the City, but he is not a Citizen in residency and continuance in the City; for he inhabiteth and dwelleth out of the City, and such a Citizen as this, is not

What persons are discharged by the words of the Charter.
Citizens of five sorts.

Concerning Prifage of

Such Citizens shall enjoy the benefit and privilege to be discharged of the payment of prifage, according to the resolution given in the Exchequer in the Case of one *Wells*; Trin. 4. H. 6. Rot. 14. where it was ruled, that one that was a Citizen and Freeman of London but dwelt in *Bristol*, might not partake of the benefit of this Charter, in so much, that he by reason of his dwelling out of the City, was only a Citizen, and a special intent. The second sort of

2. Sort.

Citizens are those which are Citizens in respect of their Freedom, and likewise in regard of residence within the City,

but are not such Citizens as do keep a Family and Household within the City, but are *Jornates* and *Sojourners*, and they do harbour themselves under the Roof of another, and a Citizen of this nature, is not a Citizen which is capable

of the Immunity granted by this Charter, for the discharge of payment of prifage, according to the resolution given in the Exchequer, in the case of one

Shand and *Sacheneril*, Hill. 43. Elix. Rot. 21. for such a Citizen is not subject to *Scot and Lot*, as he that is a *householder*, *Et qui non sentit onus, sentire non debet*

com.

commodum. The third sort of Citizens 3. *Sort.*
 are those which do inhabit, reside, and
 keep a Family in the City, but they are
 not Freemen of the City, so as they may
 be chosen in any office, and undergo
 the charge of the City; and as well as
 the Common Law doth exclude such
 Citizens for devising Lands in *Mort-* 28. *Aff.*
maine unto the *Guild* of the City, ac- *Par. 25.*
 cording to the custome of the City of 28. *Aff.*
London, as appeareth by divers Book- *Par. 18.*
 Cases, as well shall the Common Law ex-
 clude them from enjoyning the benefit
 of the Charter to be discharged of the
 payment of prisage. The fourth sort
 of Citizens, are those which are both Ci- 4. *Sort.*
 tizens, and Freemen, and do reside, and
 keep family in the City of *London*, and
 they are not continuing Citizens at such
 time as the Bulk is broken, and the Ship
 unladen; for they were disfranchised be-
 fore. These Citizens likewise shall not
 enjoy the exemption granted for the
 discharge of the payment of Prisage,
 insomuch that they were not continuing
 Citizens at that time as the prisage
 ought to be taken. The fifth sort of 5. *Sort.*
 Citizens, are those which are both Ci-
 tizens, and Freemen, and have their fa-
 milies

Concerning Prifage of

milites and dwelling in *London*, and do continue Citizens at such time as prifage, ought to be taken. Now Citizens of this kind are the real, proper, and natural Citizens intended by this Charter, which are to be discharged of prifage; and therefore a Woman which is a Citizen of this kind, howsoever she cannot bear offices in the City as a Citizen; is yet intended by the Charter: And yet also in some cases, Citizens of this kind shall not be intended within the words of this Charter; and therefore if the Mayor and Commonalty have a joynt Stock of Wines come into the Port of *London*, now prifage shall be taken of these Wine, notwithstanding that every of them in their proper persons Citizens, both *residentia*, *familia*, and *continuations*; for respect is not to be had to their natural bodies, but to their politique body, in which capacity the Charter will not extend to them. So if one at the time, that he fraughteth a Ship, be not a Citizen in all the degrees, now howsoever afterwards before the return of the Ship he be enabled in every respect, yet he shall not enjoy the benefit of the Charter, inasomuch that he

was not so at that time that the Ship was sent abroad.

Seventhly and lastly, what Wines shall be discharged of the payment of ^{7.} What
 passage, it will better appear by the ^{Wines are}
 consideration had of the several kinds ^{discharg-}
 of properties; and there ore be that ^{ed of pas-}
 shall have his Wines discharged of pri- ^{sage,}
 sage ought to have a property in them,
quarto modo, that is, *sibi solum & semper*;
 and also he ought to have *jus pos-*
sessionis and *jus proprietatis*, and the
 one without the other will not serve the
 turn; and therefore if a Citizen and
 Forreigner be joynt Merchants for
 Wines, now the Wines of these joynt
 Merchants shall not be discharged of
 the payment of passage, insomuch that
 the Citizen hath not a sole property in
 them, and it may not be distinguished
 which of the Wines belong unto the
 Citizen, and which to the Forreigner,
 because of their joynt interest. But if
 two Citizens be joynt Merchants or Te-
 nants in common of Wines, now these
 Wines shall be within the compass of
 the Charter to be discharged of passage,
 because they are the Wines of the Ci-
 zens of *London*, according to the words

Concerning Prilage of

and intent of the Charter; howsoever
neither of them have a sole interest and
property in them. And if a Citizen and
Freeman of *London* hath Wines pledged
unto him by another Citizen and Free-
man. Now these Wines upon their com-
ing home shall not be discharged of the
payment of prilage, insomuch that the
Citizen hath only a special property in
them, and not any absolute property.
So if a Forreigner that hath freighted
Ships beyond the Seas for the bringing
of Wines into *England*, doth make a
Citizen of *London* his Executor, and die,
and the Ship cometh into the Port; now
these Wines thus in the custody of the
Citizen shall not be discharged of the
payment of prilage, for as much as the
Citizen hath only a property in the
Wines to the use, and behoof of the For-
reigner, and hath not any absolute pro-
perty in the Wines. And if one Citizen
of *London* that hath Wines abroad com-
ing into *England*, do make a Forreigner
his Executor, and dieth, and this forreign
Executor doth imploy the Stock that
cometh of these wines to returned home
after the deach of him that set them forth,
and Wines are returned home, now how-

soever

foever these last Wines so returned into
England are Affets in the hands of the
 Executor, and in Appellation are the
 Goods of the first Citizen, yet they are
 such Wines as are capable of the dis-
 charge of prisage within the words of, the
 Charter, because these Wines came in
 as it were upon a new contract. And if
 a Citizen do buy Wines with an intent
 that a Forreigner upon their coming
 home shall have these Wines, now these
 Wines shall not be discharged of prisage,
 and this deceit of buying them by a Ci-
 tizen, shall not any wayes avail him, no
 more then if a Citizen buy Cloth, in
 London for a Forreigner he shall desert
 the custome of Forreign bought, and For-
 reign sold, to avoid the Forfeiture of
 them. So the Wines which a Forreigner
 buyeth of a Citizen, or that a Citizen
 buyeth of a Forreigner, shall not be dis-
 charged of prisage within the words of
 the Charter, because they were not the
 Wines of a Citizen alwayes, from the
 time of the lading of them, until the
 time of the unlading of them, as they
 ought to be.

The Case concerning repairing

*The case concerning repairing of
Wharves and Docks.*

*Termine Sancti Mich. Anno Regni Jac.
Regis 7. in the Kings Bench.*

Cornelius Fish Chamberlain of
London, distreined the Goods
of one *Walter Keate*, for a pain as-
sessed by the Common Council of
London, and all the matter appear-
ed upon the return of the Sheriffs
of London, which was very long ;
but to this effect : They returned
the Usage, and Power, and Cu-
stome of the City of London, to
make By laws by their Common
Council ; and that *Puddle-Dock*
near *Pauls-wharfe* was an ancient
place for lading and unlading of
Ships, Boats, and Lighters, and
that it was in decay, and that for
reparation of it, it was ordained,
that every Ship that should be loa-
den

Of Wharfes and Docks:

den and unloaden there, should pay
a peny for every load; and that e-
very Carman for every load which
he should carry from thence,
shoul pay a penny; and that the
said *Walter Keate* had carried di-
vers load, which according to the
rate of one penny for every load,
did amount to the value of ten
shilling; and that the City did
grant this Assesment to the Cham-
berlain, in recompence of the
charges which he should expend a-
bout the said reparations and upon
this Certificate a *Procedendo* was
grayed, and it was alledged, that
this By law being for the benefit of
the City, was good by Law, and
ought to be obeyed, and so it came
to be debated. (*Telverton Henry*)
prayed, that no *Procedendo* might
be granted, because the return and
the matter of it, is against the Com-
mon Law, the Weal publique, and
against the Liberty of the City it
self. By the Council *Sexto Jacobi*

Resolution concerning repairing

It was ordained, That as well Citizens, as Strangers, should pay, and the King could not grant it to the City; for it is an imposition not allowed by the Law, first against Citizens; because although the Tax may be made for the general good of the City, yet it cannot be imposed or taxed upon particular persons, but upon every House of the City, &c. but here it is particular and personal to this part of the City. Also this Dock was never repaired at the general charge of the City, but by the particular Ward of Baywards Castle. Also the Citizens of Colton shall not pay Toll in any place of England, and here the Dock stands upon the passage of the City, and every Wharfe is as Gate of the City, and therefore they may as well impose a tax upon every one which goeth out of any of the Gates of the City (which is unreasonable, and against Law) as out of this Wharfe. And all

Of Wharves and Docks.

here is no certain profit to the City,
but this taxation is farmed for one
and twenty years, for ten shillings a
year to the City, which if it were a
general charge, there ought to
come some general benefit by it to
the City. It is not like to the case of
Cloth, *Co. part. 5. fol. 62.* because
that was for the general good of
the Realm, and in the furtherance
of the Execution of divers Sta-
tures; but this is neither in furthe-
rance of other Statute, or common
Law, but rather to the prejudice of
both, because every Citizen, in re-
spect of his Freedom, is equal to
the Lord Mayor. And *29. Eliz.* in
the Common Pleas, it was ordained
by the Common Council, That none
should use any Sand in the City,
except it were taken out of the
Thames, and it was adjudged to be
against Law, and the Officer of the
Mayor was committed to Prison.
And this Dock did heretofore be-
long to the Arch-bishop of Canter-
bury,

The Case concerning repairing
bury, and hath ever been free, also
here the Assessment is unreasonable,
viz. to pay for every load a pen-
ny, especially for Inhabitans about,
and neer the Dock; and so he pray-
ed that there might be no *Preceden-*
do. (*Crook George*) was of the same
side; And he said, that by the Act
of *Common Council* it is enacted,
that none shall carry, &c. so that
by that Ordinance none shall carry
a Paile of Water, but he shall pay
a penny for it. Also the Assessment
is to be leyed, and to continue for
twenty one years together, which is
unreasonable; and it hath been ad-
judged here, that an Assessment
leyed for twenty one years, for re-
parations of a Church, was not
lawful. (*Mosley of Grays-Inne*) pray-
ed for a *Precedendo*, and said, that
it did not appear by the return, that
Krate was a Citizen, and the
Judges are not to meddle with any
thing which is not within the re-
turn, and he said it was a good By-
law,

Of Wharves and Docks:

law, founded both upon custom
and prescription; and he put *Ta-*
verner and Cromwells Case, Pasch.
16. Eliz. 322. 323. Dyer, where
the Lord of a Mannor made a By-
law, that no Tenant should put
his Beast into the Common, before
the ringing of a Bell, upon pain
to forfeit twelve pence, and ad-
judged a good Ordinance, and he
cited *Smith and Shepherds case, 49.*
Eliz. where there was a prescripti-
on for through Toll, adjudged to
be good, because it was for main-
tenance of High-ways, so here it
is for the Weal Publique, of that
part of the City, and for all the
City; and it should be a great in-
convenience, that this Wharfe
should not pay, add that all o-
ther Wharves should pay Toll,
and that was one *wisemans Case,*
47. Eliz. that Wharfiage by pre-
scription is good; and *44. Elizab.*
in *Hankshhead and Woods Case,*
where Toll was paid for mainte-
nance

The Case concerning repairing
nance of the Walls of *Salisbury*;
for every pack of Wooll which
passed by, one penny, and holden
to be a good imposition; and the
case of *Gravesend*, where there
was an imposition, that every one
which landed at *Gravesend*, should
pay a penny toward reparation
of the Bridge, and good by the
better opinion of 11. H. 6. Of
Fair and Market (*walter*) was on
the same side, this by Law is good.
First, it is not against the Rules of
Law, nor the Prerogative of the
King, nor the benefit of the Sub-
ject; for by the Statute of 4. H.
7. cap. 15. 16. that the City of
London is conservator of the River
of *Thames*, from *Stanes* to *Ten-
land*, in the County of *Kent*: Al-
so by the Statute of 28. H. 8. cap.
it is ordained, that the River shall
not be stopped, Ergo this by
Law is for the better execution of
those two Acts of Parliament. Se-
condly, it is a benefit to the sub-
ject,

Of Wharves and Docks.

est, because before, none could
any thing there without danger;
but now by this means the rubbish
is cleansed, and a stranger shall
have a quicker and safer return,
and the penalty upon the Cloth,
in the Case before cited, *Co. part.*
5, is a stronger Case then this is,
because Dock hath continue all,
need to be cleansed, and if such a
Tax should be for reparations of
the Walls of a City, it would be
good: As to the objection, he
answered, that as the said Case
of *Hallage* cited before, *Co. part.*
5, so this is a general in particular,
and the Tax upon the Cloth
was to be paid to a particular
person, *viz.* the Chamberlain, as
here it is, who is a General Offi-
cer for the City. The Case of dig-
ging of Sand was not good, be-
cause thereby a man was prohi-
bited to use his his own inheri-
tance: Commoners may make a
by Law, that none shall put in
his

The Case concerning repairing

his Beasts before such a day; but if the by Law be, that one particular man shall not put in his Beasts before such a day, that would not be good; but our Case is more general, and so prayed for a *Procedendo*. (*Mountague Recorder*.) If this be overthrown, all the Orders and Ordinance of the City should be made void, and stand for nothing; and he said that the very objection, that a Tax could not be imposed upon strangers, was made in the Case of *Hallage* before (*Telverton Henry*.) The Case that *walter* hath put for the cleansing of rubbish, &c. may be good, but there is no such thing here, but Tax only for landing, & *adjurnatur*.

The

Of fining a Sheriff

The Custome of London, To fine one chosen by the Commons to be Sheriff, and refusing to hold.

Richard Chamberlain a Citizen, and Freeman of *London*, being chosen by the Commons according to the custome of *London* to be one of the Sheriffs of the City of *London*, is convented before the Major, and Commonalty to take the Office upon him, or otherwise to take his Oath that he is not worth ten thousand pounds; upon his appearance he refuseth to take the Oath, and likewise to execute the Office: whereupon according to the custome of *London* he is fined four hundred Marks, and committed to prison until such time as he enter into Bond unto the Major and Commonalty for the payment of it.

He becometh bound accordingly unto the Major and Commonalty for payment of the said sum at a certain day, and thereupon is enlarged.

The four hundred Marks are not paid at the day, whereupon the Mayor and

D

Com-

Commonalty affirm a Plaint against him in *London* for the said Debt. The Defendant obtaineth a *Habeas Corpus* to remove the body and the cause into the *Kings Bench*, upon a supposition that he was to have the Priviledge by reason of a Priority of Suit in the *Kings Bench*, and upon recurrence of the *Habeas Corpus*, all this matter appeared unto the Court, and it was moved by Sir *Henry Mountague*, now Lord Chief Justice of the *Kings Bench*, then one of the Serjeants of the King. and Recorder of *London*, that a *Procedendo* might be granted, whereby the Major, and Commonalty might proceed against him in the Court at *London*. It being a customary Suit meerly groundd upon the custome of *London*. But that was denied by Sir *Edward Cook* Chief Justice, and the whole Court, because by the Law, *Chamberlain* having cause of Priviledge by reason of the Priority of Suit against him in the *Kings Bench*, might not be re-manded; but he was to answer in that Court. Whereupon the Major and Commonalty did declare against him upon the said Obligation in the *Kings Bench*.

Secondly,

Secondly, it was moved that the action upon this obligation might be laid in some indifferent County, and not in *London*; forasmuch as the Trial there must be had by those that were Parties unto the Action, it being brought by the Mayor and Commonalty. But Sir *Edward Cook*, and the Court would not upon this surmise take away the benefit which the Law giveth to every Plaintiff upon a transitory action, wick is to lay it in whatsoever County he will. And if there be any such cause as is surmised, then after Plea pleaded, he may make an allegation, That the City of *London* is a County in it self, and that all the Citizens there are Parties to the Action which is brought, whereby there may not be an indifferent Trial. And upon this surmise, the Court shall order the Trial to be in a Forreign County. The which was done accordingly: and so the matter proceeded.

38 Patent of Merchant-Adventurers.

The Case of the Merchant-Adventurers.

King Edward the third, in the year of his reign by Letters Patent doth incorporate certain persons by the name of the *Merchants-Adventurers of England*, and doth give power unto them to transport *white Clothes* into divers parts beyond the Seas, restrayning them from carrying over *Woolls*.

The Merchants-Adventurers do trade beyond the Seas and continue the transporting of Clothes *white* until the 29. of *August*, in the tenth year of his Majesties Reign that now is. At which time the King by his Letters Patentes doth incorporate the Earl of *Suffex* late Lord Treasurer of England, Sir *Thomas Davaſour*, Sir *Stephen Soame*, *William Cockayne*, and others by the name of *The Merchants Adventurers of the new trade of London* with full power & authority to transport *dyled, and dressed Cloths* into divers parts beyond the Seas, with a restraint prohibiting all the *Old Merchants-Ad-*
vnt.

Patent of Merchant-Adventurers. 27

venturers, which did not joyn themselves unto this new Company to transport any under the forfeiture of them, and also inhibiting the *New Merchants* from transporting any Clothes but such as are died and dressed. And after three years passed, they having power during that time to transport 36000. white Clothes: And there being a refusal of the *Old Merchants Adventurers* to surrender up their Patent; The King bringeth a *Quo Warranto* against divers of the Merchants of the old Company by particular names, to know by what Warrant they do without Licence of the King transport Clothes white, undied, and undressed beyond the Seas.

The *Merchants* upon the return of the *Quo Warranto* do make their appearance; And an Information being exhibited against them by Sir *Fr. Bacon* Knight, now Lord Chancellour of *England*, and then Attorney General unto his Majesty, cometh into the *Kings Bench*, and moveth the Court that the old Merchants Adventurers might have a short day the next ensuing Term, to answer unto the Information exhibited against them. Inasmuch, that the new Company of Mer-

chants Adventurers standing at a gaze, as being uncertain of what validity the old Patent would be, did slack to transplant the *Diers*, and other Tradesmen out of the *Low-Countries* into *England*, being necessary Instruments for the putting in Execution of this design, because there were not here in *England* those that were able to Die and Dress, in that manner that the *Low-Country* men did. And so there was in the *interim* a stop of the current of Merchandizing with our Cloath, the which being the *principal Commodity* that we had here in *England*; the Fleece that causeth it, may well and aptly have the term of, *The Golden Fleece*; and there being a stop made of the traffiquing and trading with these clothes, it is as dangerous unto the *Politique Body* of the Commonwealth, as the stop of a Vein could be to the natural Body; for as by the stop of a Vein the Blood is debarred of his free passage, and so of necessity there must be a Consumption by the continuance of it follow unto the body natural: So traffique being the Blood which runneth in the Veins of the Commonwealth, it cannot be but that the hinderance of it
by

Patents of Merchants-Adventurers.

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by any long continuance, must breed a Consumption unto the State of the Commonwealth; Wherefore, to open this Vein, which was as yet somewhat stopped, and to give a more free passage unto the Blood, he was a Suitor unto the Court, on the behalf of the Company of the *New Merchant-Adventurers*, that the Court would give expedition in this Case; for they conceived, that if this new design might take its full effect, as it was intended, it could not be, but of necessity there must a great benefit redound to the Commonwealth.

For first, Whereas our State groweth sick, by reason of the many idle Persons which have not means to be set on work, this Dying and Dressing of Cloths within our Kingdome, would give sufficient employment unto them all, whereby there should be a cure to the lazy Leprosie, which now overspreadeth our Commonwealth.

1.
Benefits
of having
Woollen
Cloth Di-
ed and
dressed in
England.

Secondly, Whereas now we send our clothes *white*, and the *Low-Country-men* receive them of us, and Dye them and Dress them, and afterwards transport them unto forreign parts, making a wonderful benefit to themselves, both in

D 4

point

point of profit, and likewise in respect of maintaining their *Navy*; whereas, if the Clothes were Dye and Dressed by our selves, we might reap that matter of gain, and also be Masters of the Sea, by strengthening our selves in our Shipping.

3. Thirdly, Whereas there happeneth often a confiscation of all our Clothes, and much disgrace and discredit lighteth upon our Nation, and our Clothes, by the abuse of the *Law Country-men*, in stretching them a greater length than they will well bear, when they Dye and Dress them; now it should be prevented, when they should never have the finger of them, to put that abuse in practice: Wherefore this Patent made by King *Edw. the 3.* bereaving the King and Commonwealth of these great benefits and commodities, is against the Law and so ought to be repealed. And day was given accordingly to put in their Plea.

At which time, many of the old Merchants-Adventurers being willing that trial should be made, whether the benefit intended unto the Commonwealth might be compassed, did shew (to their obedi-

Patent of Merchants-Adventurers. 41

obedience unto the King. and desue of the good of their Country) Surrender up their Patent into the hands of his Majesty; since which time, it being found by experience that the project had not that success which they expected, and likewise Cloth and Wooll lay dead, because there was no vent for them abroad: The King according to his power reserved unto him in his Patent, by which he erected, and created the new Company of Merchants Adventurers of *London*, did make repeal and revocation of the said New Patent, and new Company, and did redeliver unto the old Merchants their Patent, confirming it, and likewise by another Charter did enlarge the Liberties and Priviledges of the old Merchants, by reason of which Grace of the King, the old Company of Merchants-Adventurers of *England* are reestablished in that estate wherein they formerly were, and they do now trade again, as formerly they did, to the great content of the Subject, and benefit of the King and Country,

Certifying Indictments upon Certioraries.

HILL. 12.
Jac. Rex
K. Bench.

Iohn Farrow, John Evans, and divers others, being Indicted before Sir Thomas Hayes, Lord Mayor of London, Sir Henry Mountague, Serjeant unto the King, and Recorder of London, Sir Thomas Lowe, and divers others by virtue of a Commission granted unto them; a *Certiorari* was directed unto them, as Justices of Peace out of the *Kings Bench*, for the certifying the said Indictment, upon which *Certiorari*, no return was made; whereupon a second *Certiorari* was awarded unto the said Commissioners, commanding them to certify the said Indictment upon a pain, upon which *Certiorari*, a return was made in this manner:

That is to say, that King H. 6. in the 23. year of his Reign by his Letters Patents, bearing the same date, did grant unto the Mayor, Aldermen, and Sheriffs of London, that they should not be compelled upon any Writ directed unto them, to certify the Indictments themselves, taken before them, but only the Tenors
of

of them, the which they have done accordingly; and Exception being taken unto this Return for the insufficiency of it; it was resolved by Sir Edward Cook, Chief Justice of the Kings Bench, Sir John Crook, Sir John Dodding, and Sir Robert Haughton, that the return, upon the reasons hereafter following, was insufficient.

For first, the Letters Patents being granted unto them by the name of the Mayor, Aldermen, and Sheriffs of the City of London, warranteth only the not certifying of Indictments taken before them, as Mayor, Aldermen, and Sheriffs of London; and where the Writ is directed unto them by that name, and they do not excuse them, in Case where the Writ is directed unto them, as Justices of Peace, and where the Indictments are taken before them, as Justices of Peace, by virtue of the Kings Commission. And howsoever the Mayor and Aldermen are Justices of Peace by Charter, yet inasmuch that they are distinct powers, return made by them by the name of Mayor and Aldermen, where the Writ is directed unto them (as Justices of Peace) will not be good.

Second-

2.
Past all
Resump-
tion.

Secondly, there being a Resumption made by Act of Parliament in 28. H. 6. whereby all Lands, Tenements, Grants, Rent, and Fees granted since the first day of his Reigo were resumed; the Letters Patents made in 23. H. 6. unto the Mayor and Commonalty, are annulled and made void, and so no hold may be taken of them; and the Statute made in 1. Edw. 4. cap. 1. only confirms those priviledges not heretofore revoked and repealed by Act of Parliament, or otherwise; and howsoever there be a Charter made by H. 7. in the first year of his Reign, whereby restitution was granted of this priviledge, yet no advantage may be taken of it, because it was not spoken of upon the return, and the Court may not intend it.

3.

Thirdly, the Letters Patents of the King being the sole ground and foundation to make the return good, are not sufficiently returned unto the Court, in so much that it was said upon the return only, that the King by his Letters Patents did grant unto the Mayor, Commonalty, and Sheriffs of London, that they should not be compelled to certify the Indictments themselves; but it doth

not

not appear, that they were sealed with the Grand Seal, and if they were not sealed with that Seal, the Letters Patents may not be of any validity in Law, howsoever they were sealed with the Exchequer Seal, or Duxchy Seal, in respect of which, they may well be called the Letters Patents of the King.

Fourthly, the use hath alwayes been to remove Indictments, and the Record of them upon a *Certiorari* awarded out of the Kings Bench, and there was never any denial made of it before this time; and in 5. *Ed. 6.* where a *Certiorari* was directed unto them for the removing of an Indictment of a Woman which was Indicted for being a common Whore, the Indictment was certified in obedience unto the Writ, although in the end of the return, they shewed their Charter, and prayed that it might be remanded, because it was an Indictment only warrantable by the custom of the City, and not by the Common Law: And the Court was of opinion in the return at the Bar, to have imposed a Fine, and to have awarded a third *Certiorari*, but it was stayed, and the second return was amended.

Concerning Orphans Portions.

Concerning Orphans Portions.

Hill 73.
K. Bench.

THe custome of *London* is, that if a ny Freeman devise land, or other Legacies of goods unto an Orphan, that then the Mayor and Aldermen have used to take the profits of the Land, and to have the disposition of the Legacies, until such time as the Legatees shall attain unto the age of twenty one years, or otherwise, being a woman, should be married; and if the disposition of the profits of the Lands, or of the personal Legacies, were declared by the Testator in his Will, that then the Mayor and Aldermen have used, time out of mind of man, to convent the person trusted by the Will of the Testator before them, and to compel him to find Sureties for the true performance of the Legacies, according to the Law of the Realm, and the Will of the Testator; and if they refuse to find Sureties, then it is lawful to imprison them until they find Sureties. The Widow of a Freeman of *London* dwelling in *Middlesex*, bequeathed a Legacy of a thousand pound unto her Daughter after all Debts and Legacies paid,

Concerning Orphans Portions.

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paid, and upon condition that she should not marry without the assent of her Executor, and maketh a Freeman her Executor, and dieth. The Executor is conveyed before the Court of Mayor and Aldermen, and required to put in Sureties unto the *Chamberlain of London*, according to the Custome for the payment of a thousand pound, according unto the time limited by the Will, and according to the Will aforesaid. The Executor denieth to find Sureties; whereupon he was committed to prison, and a *Habeas Corpus* being awarded out of the Court of *Kings Bench*, to have the Body of the Executor, together with the cause; all this matter appeareth upon the return. And now it was moved by *Richard Martin* late Recorder of *London*, then an Apprentice of the Law, that the return was insufficient, and so the Executor ought to be enlarged.

First, in regard that the ground of the *Ret. r.* imprisonment was the Custome of *London*, and the custome is against the Law, and void, insomuch that it enforceth an Executor to find Sureties for the payment of a Legacy, according unto the Will

Concerning Orphans Portions.

Will, where the law requireth, that debts be paid, before such time as Legacies be performed; and the Law giveth an election unto the Executor, to pay which of the Legacies he will, in case there be not sufficient to pay all the debts and legacies of the Testator; but this exception was disallowed by the said Court, in so much that the custome of *London* appeareth by the return to be, that he shall find Sureties for the performance of the Legacies according unto the Law of the Realm, and the Will of the Testator: So as if the Executor had not sufficient to pay debts, and legacies, he hath the same power and liberty after such time as he hath found Sureties, as he had before.

Secondly, exception was taken, because it appeared by the return, that the Devisor was a woman, and also only the Wife of a Freeman, and not a Free-woman, and she is not within the custome of *London*, which only speaketh of a Freeman. But this exception was over-ruled; for a woman being a Free-woman within the Statute of *Magna Charta* cap. 29. which enacteth, that no Freeman shall be taken or imprisoned, &c. but by the lawful judgement of his Peers: So that the

Concerning Orphans Portions.

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she being a Barreness or Countess. shall be tried by her Peers upon an Indictment preferred against her, she shall also be reputed a Freeman within this custome.

Secondly, the Wife of a Freeman having the liberty and priviledge to Trade in the Ciry, and so able to take benefit by it, she shall also be bound by the customes of it.

Thirdly, howsoever she was dwelling out of *London* at the time of the Will made, she is a Freeman within the compass of the custome.

Fourthly, it was objected, that this custome of *London* concerning Orphans, was an antiquated custome, and had not been put in use by many years, and therefore ought not now to be put in ure so take away the liberty of a man, and especially also, because the life of a custome is the usage; but this exception was over-ruled, for this custome is daily put in Ure,

E

The

The custome in not removing body and
cause upon Habeas Corpus.

Pasc. 14.
Jac. Chan

A Petition being affirmed in *London*, by one *Hill*, a Citizen and Freeman of *London*, against another Citizen and Freeman of *London*, upon a Bond of a hundred pound, a Summons is awarded against the said obliged, and the process being returned, that he hath nothing whereby he may be summoned within the City, upon a Summons made by *Hill* the Obligor, that one *Harrington*, a Citizen and Freeman of *London*, is indebted in a hundred pound unto the first Obligor, a Summons is awarded, according to the custome of *London* of Foreign Attachments, for the warning of *Harrington*, who is warned accordingly; whereupon *Harrington* procureth a *Habeas Corpus* for the removing of his body, together with the cause into the Kings Bench, upon which Writ, a return is made in this manner; that is to say, That *London* is an ancient City, and, that time out of mind of man, the Mayor, Aldermen, and Citizens of *London* have had Consens of all manner of Pleas,

body and cause upon Habeas Corpus. 23

Pleas, both real and personal, to be holden before the Mayor, Aldermen, and Sheriffs of *London* in *London*; and that in no action whatsoever they ought to remove the cause out of *London* into any other Court, and do moreover shew a confirmation made by R. 2. in the seventh year of his Reign of all their customs; and so for this cause they had not the body here, nor the cause. And exception being taken to the insufficiency of this return, it was agreed and resolved by the whole Court of Kings Bench, that this return made, was ill; for common experience teacheth, that the usual course is, and alwayes hath been, that upon *Habeas Corpus*, the body, together with the cause, have been removed out of *London*, into the Kings Bench; and likewise upon *Certioraries* awarded out of the Kings Bench. Records have been certified out of *London* into that Court: for Justice being to be done unto the Citizens of *London*, as well in that Court, as in their own proper Court, the Court of *London* being an inferiour Court unto the Court of Kings Bench, where the King is supposed to sit in person, ought to yeild

bedience unto the Writs awarded out of that Court, as the Superiour Court; but if the cause should be such, that there should be a failer of Justice in the Kings Bench upon the removing of the cause, because it is only an action grounded meerly upon the custome of *London*, then a return made of the special matter will be warrantable; or otherwise if the return be made, that the custome of *London* is, that no cause, which is a meer customary cause, wherein no remedy can be had, but only in *London*, according unto the custome of *London*, may well be allowed, so as the cause specially be returned into the Court, whereby it may appear unto the Court, that it is such a cause, which will not bear action at the Common Law; for it is usual in the Kings Bench, that if the cause returned unto the Court upon the *Habeas Corpus*, appear to be such a cause as will bear an action only by the custome, and not at the Common Law, the Court will grant a *Procedendo*, and send it back again to *London*, as if the cause returned, appear to be an action of Debt brought upon *concessit se solvere*, or to be an a-

ction

body and cause upon Habeas Corpus. 53

action of Covenant brought upon a Covenant by word, without any special-
ry, for these be meer Customary actions, which cannot be maintained, but by the custome of London; and therefore that shall be remanded; for if the Kings Bench should retain these causes after such time as they are removed, and should not remand them, there would be failing of Justice, and the Judges of the Kings Bench in the person of the King, do say, *Nulli negabimus, nulli vendemus, nulli differemus iustitiam*: and the retaining of these causes would be a denying of Justice; wherefore they do grant a *Procedendo*, and remand it.

Customary actions to be tried only in the place where the custome lieth,

The case concerning payment of Tythes
in London.

Plac. 15.
Fm. K.
Bench.

Richard Burrel being seized in his Demesne, as of Fee, of a House, called *Green Acre*, a Shop, and Warehouse in the Parish of *Grace Church street London*, for which house, a rent of five pound yearly hath been reserved, time out of mind, in the third year of the King that now is, by Indenture doth make a Lease for five years unto one *Withers*, of part of the House, and of the Shop, rendering the Rent of five pound by the year, at the four usual Feasts, that is to say at the Feast of the *Annunciation*, &c. by even and equal portions. And in the same Indenture it is further covenanted and agreed, that *Withers* the Lessee, shall pay unto *Burrel* the Lessor, a hundred & fifty pound in name of a Fine and Income, the which said hundred and fifty pound is to be paid in manner and form following; that is to say, thirty pound yearly, and every year during the said term, at the four usual Feasts, by even and equal portions, the term of five years expired,

Upon rent
of a Mess.
let at an
ancient
rent of
5. l. per. ann.

And a fine
to be paid
by 30. l.
per. ann.

red, the said *Burrell* in the tenth year of the said King, by Indenture maketh a new Lease for the term of seven years, of the said part of the house, and the Ware-house, unto one *Goff*, rendering the rent of five pound by the year, at the Feast of *S. Michael the Archangel*, and the *Annunciation* of the Blessed Virgin *Mary*, by even and equal portions. And in the same Indenture, it is further covenanted and agreed, that *Goff* shall pay unto the said *Burrell* 175. l. in the name of a Fine and Income, in manner and form following; that is to say, twenty five pound yearly, during the said term, at the said two usual Feasts, by even and equal portions. *Dunn* Parson of *Grace Church*, exhibiteth his Petition unto the then Lord Mayor of *London*, against the said *Burrell* and *Goff*, wherein he supposeth, that Tythes are paid unto him only, according to the rate of five pound by the year, where in truth he ought to have an allowance according unto the rate of thirty pound by the year. The Lord Mayor, by the advice of his Councel, doth call the said *Burrell* and *Goff* before him, and upon full hearing of the said cause, doth

order the payment unto *Dunn*, according unto the rates of five pound by the year, and not according to the rate of thirty pound by the year; whereupon the said *Dunn* doth exhibit his Bill of Appeal unto the Lord Chancellour of *England* in the Chancery, wherein he doth make a recital of the Decree made, and established by Act of Parliament, in 37. *H. cap.* 12. and also of the case special, as it standeth, charging the said *Goff* and *Burrell* with a practice of fraud and covin, in the reservation of this twenty five pound by year, by way of Fine and Income, and defrauding him of that which belonged unto him: The said *Goff* and *Burrell* do make their answer, and shew that the rent of five pound by the year is the ancient rent reserved, and that they are ready, and have often tendered the payment of their Tythes, according to that proportion, but it hath been denied to be accepted, and they do take a traverse unto the fraud and covin wherewith they stand charged. And upon this answer, *Dunn* the Parson demurreth in Law. And this case was first argued in the Chancery by Sir *Francis Moore* Serjeant,

jeant, and *Thomas Crew*, on the behalf of *Dane*; and by *Sir Anthony Benn*, late Recorder of *London*, and *John Wal-*
ter on the part of the Defendants. The Lord Chancellour having called *Sir Henry Mountague*, Cheif Justice of the Kings Bench. *Sir Henry Hobart*, Chief Justice of the Common Pleas; *Sir John Doddridge* one of the Justices of the Kings Bench; and *Sir Richard Hutton*, one of the Justices of the Common Pleas, to be his Assistants; and after two Arguments heard on each side in the Chancery: upon Suit made to the King: by *Sir Francis Bacon*, then Lord Chancellour of *England*; a special Commuſſion was granted unto *Thomas* Lord Archbishop of *Canterbury*, *Sir Francis Bacon* Lord Chancellour of *England*, *Thomas* Earl of *Suffolk* late Lord Treasurer of *England*, *Edward* Earl of *Warwick*, Keeper of the Privy Seal, *William* Earl of *Pembroke*, Lord Chamberlain of the Kings household, *John* Bishop of *London*, Bishop of *Eli*, *Sir Henry Mountague*, *Sir Julius Caesar*, Master of the Rolls, *Sir John Doddridge*, and *Sir Richard Hutton*, where-
in there was a special recital of the
question,

question, and cause depending between *Dunn* on the one part, and *Burrell* and *Goff* on the other part; and power given unto them for the hearing and determining of this cause, and likewise for the mediating between the Citizens of *London*, and the Parsons of the several Parishes and Churches in *London*, and making an arbitrary end betwixt them, whereby a competent provision may be made for the Ministers of the Churches of *London*, and too heavy a burthen may not be imposed upon the Citizens of *London*, with a command further, that they shall certifie the King what was done in the premises. And this Commission was sat upon at *Tork-hause*, where the case was argued at several times by Sir *Randal Crew*, and Sir *Henry Finch* Serjeants of the King, on the part and behalf of the Ministers of *London*, and by Sir *Henry Tolverton* Attorney of the King, and Sir *Thomas Coventry* Solicitor of the King, on the behalf of the Citizens of *London*; and because the main Question remained as yet undetermined and no resolution is given either in point of Law, nor Arbitrary end by way of mediation: I shall only open

the parts of the case, and make a summary report of them without further debate of them.

*The Case divideth it self into six parts
(that is to say.)*

First, whether any thing can be demanded by the person for houses in *London*, according to the course of the Common Law?

Quest. 1.

Secondly, whether custome can establish a right of payment of any thing unto the Parson for houses, and of what nature the payment established shall be?

Thirdly, what was anciently payable by the Citizens of *London* for their houses unto the Ministers of *London* and how grew the payment?

Fourthly, whether this twenty five pounds reserved upon a covenant by way of fine and income, be a rent within the words of the Decree made, 37. *H.8. cap. 12*?

Fifthly, whether this reservation of twenty five pounds by the year, by way of fine and income, shall be adjudged to be a rent within the intent and meaning

4.

5.

ing of the Statute an Decree, or no?

Sixthly, who shall be Judge of the Tythes for houses in *London*? and the remedy for the Parson, in case that payment be not made unto him, according to the Decree.

Quest. 1.

What the Parson may by Law demand for houses in *London*?
Fitz. Herb. nat. brev. fol. 53.

As to the first part, which is, whether by the Common Law, any thing can be demanded for the houses in *London*? It is to be agreed, and clear that nothing can be demanded. For that which the Parson ought to demand of houses, is Tythes; and it is improper, and cannot be, that Tythes can be paid of houses. First, in regard that houses do not increase, and renew, but rather decrease for want of reparations, and Tythes are not to be paid of any thing, but such things as do increase, and renew; as it appeareth by the Levitical Law, and the Common Law of the Land. Secondly, houses are matters of inheritance, whereof a *præcipe* lieth at the Common Law. And the rent reserved upon a Lease made of them, is likewise knit unto the inheritance, and parcel of it; so that it shall go along unto him that hath the inheritance; and therefore shall descend unto the Heir: and it is a rule in Law that

Tythes

Tythes are not to be paid of part of the Inheritance, but they ought to be paid of such things as renew; upon which reason it is that Tythes by the Common Law of the Land are not to be paid of Slate, Stone, and Cole digged out of the Pit. Thirdly, houses being built only for the receiving, habitation, and dwelling of men, and for convenience of protection against the scorching Heats in Summer, and tempestuous Storms in Winter, without any profit at all redounding unto the owner. And the Parson being to have a benefit otherwise, in the payment of personal Tythes arising through his industry in the house, no Tythes can be demanded for the houses themselves, or for the rent reserved upon them. Fourthly, the Decree made 38. H. 8. which exempteth the houses of Noblemen from the payment of any rate-Tythes, sheweth the Common Law to be, so that houses of themselves are to be discharged of the payment of Tythes; and accordingly it hath been adjudged in divers cases happening at the Common Law: that Tythes by the course of the Common Laws may not be demanded for houses, but they are to be discharged.

As

34. Eliz.
D. r. 1. 1.
case K.
Bench.

The case concerning payment

2.

As to the second point, which is, whether custom can establish a right of payment of any thing unto the Parson for houses? It is clear that it may well enough: for it may well be, that before such time as any house was built upon the ground where the house stood, there had been a summe of money paid for the profits of the ground in the name of a *modus decimandi*, and so howsoever the house is built upon the ground, yet the *modus* continues, and is not taken away by it; and so there being a continuance of payment of the *modus* after the building of the house, time hath made it to be a payment for the house. But this payment is to be termed a *modus decimandi*, and cannot be well called a Tithes paid for houses, because as it is formerly said, Tithes may not be paid for houses; and all this appeareth by Doctor *Grants* case in the eleventh Report.

11. Report. fol. 16.

3.

As to the third point, which is, what was anciently paid by the Citizens of London, unto the Ministers of London, and how the payment grew? It appeareth by the Records of London, that *Nicholas* Bishop of London, 13. H. 3. made a Con-

What was anciently paid for houses in London to the Parson.

Con

Of tythes in London.

63

Constitution in confirmation of an ancient custome formerly used rime out of mind, that provision should be made for the Ministers of *London* in this manner, that is to say, that he which payeth the rent of twenty shillings for his house wherein he dwelt, should offer every Sunday, and every Apostles day, whereof the Evening was fasted one half-penny: and he that paid but ten shillings rent yearly, should offer but one farthing; and all this amounted unto but according to the proportion of 2. sh. 6. d. per pound: for there were fifty two Sundayes, and but eight Apostles dayes, the Vigils of which were fasted. And if it chanced that one of the Apostles dayes fell upon a Sunday, then there was but one half-penny, or farthing paid; so that sometime it fell out to be less by some little then 2. sh. 6. d. per pound: and it appeareth by our Book-cases in *Edward* the third his Reign, that the provision made for the Ministers of *London* was by offerings and obventions, howsoever the particulars are not designed there, but must be understood according to the former Ordinance made by *Niger*, and the payment

And how these payments grew *Niger* Bishop of *London's* Constitution. 13. H. 3.

30. E. 3. i.
30. E. 3. 3.

ment of 2. sh. 6. d. in the pound, continuing until 13. K. Ric. 2. *Thomas Arch-bish. Arundel.* Arch-Bishop of Canterbury made an explanation of the constitution made by *Niger*, and thrust upon the Citizens of *London* two and twenty other Saints days then were meant by the constitution made by *Niger*, whereby the Offerings now amounted unto the summe of 3. sh. 5. d. per pound; against which explanation there being some reluctance by the Citizens of *London*, Pope *Innocent* in 5. H. 4. granted his Bull, whereby the former explanation was confirmed; which confirmation, notwithstanding the difference between the Ministers and Citizens of *London* about those two and twenty Saints dayes which were added unto their number, Pope *Nicholas* by his Bull in 31. H. 6. made a second confirmation of the explanation made by the said Arch-Bishop. Against which the Citizens of *London* did contend with so high a hand, that they caused a Record to be made, whereby it might appear in future Ages, that the Order of explanation made by the Arch-Bishop of *Canterbury* was done without calling the Citizens of *London* unto

unto it, or any consent given by them. And it was branded by the name of an Order surreptitiously, and abruptly gotten and therefore more fit to have the name of a destructive then a declaratory Order: the which contending notwithstanding, as it seemeth the pain was most usually made according unto *Linwood*, the rate of 3. sh. 5. d. in the pound; fol. 146. for *Linwood*, who writ in the time of K. H. 6. in his Provincial Constitutions debating the question, whether the Merchants and Artificers of the City of *London* ought to pay any Tythes? sheweth, that the Citizens of *London* by an ancient Ordinance observed in the said City are bound every Lords day, and every principal Feast-day, either of the Apostles, or others whose Vigils are fasted to pay one farthing for every ten shillings rent, that they paid for their houses wherein they dwelt; and in 36. H. 6. there was a composition made between the Citizens of *London* and the Ministers of *London*, that a payment should be made by the Citizens according unto the rate of 3. sh. 5. d. in the pound, and if any house were kept in the proper hand of the owner, or were demised

F

with-

without reservation of any rent; Then the Churchwardens of the Parish, where the houses were, should set down a rate of the houses, and according unto that rate and payment should be made. After which composition so made, there was an Act of Common Council made 14.

E. 4. in London, for the confirmation of the Bull granted by Pope Nicholas. But the Citizens of London finding that by the Common Lawes of the Realm, no Bull of the Pope, nor Arbitrary composition, nor Act of Common Council could bind them in such things as concerned their inheritance; They still wrestled with the Clergy, and would not condescend unto the payment of the said elevenpence by the year, obtruded upon them by the addition of the two and twenty Saints days, whereupon there

was a submission unto the Lord Chancellor, and divers others of the Privy Council, and they made an Order for the payment of Tythes according unto the rate of 2. sh. 9. d. in the pound; the which Order was first promulgated by a Proclamation made, and afterwards established by an Act of Parliament made 17. *H. 8. cap. 21.* in confirmation of

Submissi-
on to the
Lord
Chancel-
lour and
Privy-
Council.

27. *H. 8.*
21. *cap.*

of.

of which said Order there was a Decree made 37. H. 8. with some further additions, the which said Decree was confirmed by an Act of Parliament made 37. H. 8. cap. 12. So as it appeareth by that which hath been formerly said, that the first payment was only according unto the rate of 2. sh. 6. d. per pound; afterward, the payment was increased to the rate of 3. sh. 5. d. per pound: and lastly, there was an abatement and payment made only according to the rate of 2. sh. 9. in the pound. The first payment grew by Custome, the second by Constitutions, and Bulls of the Pope; the last by Decree in the Chancery.

As to the fourth part, which is, whether this twenty five pounds *per annuum*, reserved by way of fine and income, be a rent within the words of the Decree, or Statute, or not? It was clearly agreed, and resolved, that it was not a rent. For it may not be said either a rent-service, or rent-charge, or rent-seck; and there are only three manner of Rents, *Est argumentum à divisione fortissimum*. Secondly, it hath not the properties and qualities of a Rent; for it shall not be incident to the reversion of the house to

pass, or descend with it, it shall not be extinguished by the purchase of the house not suspended by an entry in the house, nor apportioned by an eviction of part of the house. Thirdly, the party himself in his Indenture of Lease hath called it a Fine, and Income; and hath expressed the days of payment for it, as a Fine, and Income; and therefore now it may not well be said to be a rent either in the judgement of the Common Laws, or Ecclesiastical Laws, or in common acceptance.

As to the fifth part, which is, whether this twenty five pounds by the year, thus reserved upon a Covenant by way of Fine and Income, be a rent within the intent and meaning of the Decree made 37. R. H 8. cap. 12? It was conceived by those that argued on the behalf of the Ministers of *London*, upon the reasons hereafter following that the reservation of twenty five pounds by the year, by way of Income, was a rent within the meaning of the Decree, and that the Plaintiff ought to have the rate-Tythes paid unto him, according to the proportion of thirty pounds by the year, and not according unto the rate of five pounds

Whether this twenty five pounds by the year, thus reserved upon a Covenant by way of Fine and Income, be a rent within the intent and meaning of the Decree made 37. R. H 8. cap. 12?

I. Arguments on Ministers part.

Of tythes in London.

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pounds by the year only; First, in regard that this Fine being profit which ariseth by reason of the house, and being payable at the same times, that the first five pounds (which without question is a rent) is payable, and upon the same conditions may well be said a rent; both out of the Etymology of the word, by common acceptation of the thing, by the judgement both of Common Laws, and of the Laws of the Church and so is a rent within the intent of the Decree; and the naming of it a Fine, or Income shall not cause an evasion out of the Law. Secondly, this Decree, and Act of Parliament being made for the avail of the Church, and setting of the revenue thereof; shall have as liberal construction to give life unto the true intent and meaning of it, as may be, and the slight of payment of it, as a gross sum by way of Fine and Income upon a Covenant made by *Goss* the Lessee, shall not defeat the good provision made by the Decree. Thirdly, this 1. sh. 9. d. in the pound being the labourers hire, and given him in satisfaction and recompence of all manner of Tythes, either personal, predial, or mixt, the Decree

made concerning it, ought to be extended and enlarged so far, as by reasonable exposition it may, and is not any wayes to be restrained, whereby to give way to any cautelous provision made by the party. Fourthly, the Common Law, and Statutes having all with one voice, condemned fraud, covin, and deceit used in any manner of kind or way, and bandying themselves against it, whereby to extirpate and root it out of the hearts of all; and to prevent it from being put in use in the actions of any man; It is great reason in this case, which concerneth God, the Church, Religion, and Learning, to suppress all manner of Acts which may any way have a taste, or touch of fraud. Wherefore this Fine, or Income thus reserved by way of Covenant, having the appearance of fraud, shall be taken to be a rent, within the intent, and meaning of the Decree; and way shall not be given to this device, whereby to defeat the Church and Ministers of it of their due. But those that argued on the behalf of the Citizens of London, were of opinion that this Fine, and Income was not within the intent and meaning of the Decree; for the Decree

Argument
on the Ci-
zens
part.

Of tythes in London.

77

cree being that the Citizens and Inhabitants of the City of *London*, and Liberties of the same, for the time being shall yearly for ever without fraud, or covin, pay their Tythes to the Parsons, Vicars, Curates of the said City, and their Successors for the time being, after the rate hereafter following; that is, to wit, of every ten shillings rent by the year, of all, and every House, and Houses, Shops, Warehouses, Cellars, and Stables within the said City, and Liberty of the same, sixteen pence half-penny, and of every 20. sh. rent of all and every such House, and Houses, Shops, Warhouses, Cellars, and Stables within the said City, and Liberties, 2. sh. 6. d. and so above the rate of twenty shillings by the year, ascending from ten shillings to ten shillings according to the rate aforesaid. And where any Lease is, or shall be made of any dwelling house or houses, shops, warehouses, cellars, or stables, or any of them, by fraud, or covin, reserving less rent then hath been accustomed, or is, or that any such Lease shall be made without any rent reserved upon the same by reason of any Fine, or Income paid beforehand, or by any fraud, or covin, that then, and in

every such case the Tenant or Farmer, Tenants, or Farmers thereof shall pay his, or their Tythes of the same, according to the quantity of such rent, or rents, as the same house, or houses, shops, ware-houses, cellars, stables, or any of them were last letten, without Fraud or Covin, before the making of such a Lease. It appeareth that the Decree aimeth at a rent, and not at a Fine, or Income, for within the words above mentioned, it appeareth that there is a difference, and distinction made between a Fine, and an Income, and the intent of the maker of the Decree, is best drawn and understood by the words of the Decree, wherefore the Party Lessee having expressed himself that this twenty five pounds by the year, shall be paid in name of a Fine, and Income. And the Decree it self shewing that by reason of a Fine, or Income, less rent is reserved, it may not be said that this twenty five pounds by the year, shall be a rent within the meaning of the Decree, when there is a rent of five pounds also reserved, beside this Income. Secondly, this Decree made in 37. H.8. being penal unto the Citizens of *London*, because it inflicteth imprisonment

ment upon him, upon his non-payment of his Tythe according to the rent reserved, and being also in advantage of the Ministers of *London* because, by virtue of this Decree, the Minister is to have according to the rate of 2. sh. 9. d. in every twenty shillings, where anciently he had but 2. s. 6. d. it is no reason to extend it by equity, and to construe that to be a rent within the intent and meaning of the Decree, which of it self is a Fee, or Income. Thirdly, there never having been above the rent of five pounds by the year, reserved upon any Lease made, it cannot be taken to be any covin, or collusion. When the ancient rent is reserved, in so much, that now so much as the Law requireth, is done, and besides where the Common Law or Statute Law shall take notice of a Fraud, it ought to be in case where the thing in which the Fraud, or deceit was supposed, is formerly in being; for a Fraud may not be committed to a person, or thing not in being. Fourthly, it is to be reserved, so that if no rent at all had been reserved, there might not any more have been demanded, but only according to the rate of the rent, which was last reserved

served for the houses; wherefore the ancient rent of 5. l. being here reserved, it cannot be, that within the intent and meaning of the Decree there can be more rate-Tythes demanded, then according to that rent. And besides the very words of the Decree, intimates that there is no fraud within the meaning of the Decree, but only where by reason of the Fine, or Income, there is not rent at all reserved, or a less rent then was anciently reserved; wherefore in the Case at the Barre, the old rent being reserved, there may be no fraud at all.

Asto the sixth, and last part, which is, who shall be Judge of the payment of Tythes for houses in *London*, and the remedy for the recovery of them? It is apparent out of the words of the Decree, that the Mayor of the City of *London* is Judge, and is to give order concerning them; and Suit is not to be made in the Ecclesiastical Court for them; and if it be, a Prohibition is to be granted, insomuch, that the party grieved resorteth unto another Judge then the Statute hath appointed. But if the Mayor do not

give

give aid within two moneths after complaint made, or do not give such aid as is fitting; then resort is to be made unto the Lord Chancellour of *England*, who hath three moneths given him for ending of the said Cause.

Where-

and within two months after com-
mence, or do not give such aid as
may be required: this action is to be made
in the Lord Chancellor of England,
who hath there committed him for
the King of the said Castle.

Where

Whereunto is annexed divers

ANCIENT
Customs,
AND
USAGES
Of the said City of
LONDON.

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St. Dunstons Church-yard.



DIVERS
ANCIENT CUSTOMS
AND
USAGES
OF THE
City of *LONDON.*

I*N Plito Ferre in Hustings*
London, viz. That all
the Lands, Tenements,
and Hereditaments,
Rents, and Services
within the City of *Lon-*
don, and the Suburbs
of the same, are pleadable in the *Guild-*
Hall within the said City, in two *Hust.*
of which, one *Hust.* is called, *Hust.* of a
Plea of Land; and the other *Hust.* is
called, *Hust.* of Common Pleas, and the
said *Hustings* are kept in the *Guild-Hall*,
before the Mayor, Sheriffs, and other of
the

the said City, every week upon Munday and Tuesday, that is to say, Munday to enter demands, and to award Non-Suits, and allow Essoynes, and on Tuesday to award defaults, and to plead, saving at certain times, and Festival dayes, and other reasonable causes, on which times no *Hust.* may be kept by Custome of the said City. *Nota, quod Hust.* of Pleas of Land, must be kept one week apart by it self, and the *Hustings* of Common Pleas one week by it self, at the said days; yet the solelements of the said *Hust.* make mention only of Munday.

Hust. of Pleas of Land.

IN *Hust.* of a Plea of Land, are pleaded Writs of Right Patent, directed to the Sheriffs of *London*, in which Writ there are such process by custome of the said City, *viz.* The Tenant, or Tenants at the first, shall have three Summons to the Tenants, delivered at three *Hust.* of Plea of Land next following, after the livery of the Writ, or demanding the Tenants at any the *Hust.* aforesaid: And after the three Summons

mons ended, three Esloynes, and other three *Hust.* of Plea of Land, then next following; and at the next *Hust.* after that three Esloynes; if the Tenants make default, *Process* shall be made against them by *Grand Cape*, or *Petit Cape* after appearance, and other *Process*, as at the Common Law. And if the Tenants appear, the Demandants shall declare against the Tenants in nature of what *Writ* they will, except certain *Writs* which are pleadable in the *Hust.* of *Common Pleas*, as shall hereafter be shewed, without making protestation to sue in nature of any *Writ*, and the Tenants shall have the view, and shall be *Esloyned* after the view, at the Common Law: And shall also have the Tenants *Esloyned* after any appearance by the custome of the City.

And although one such *Writ* be abated after view by exception of Joyn-tenants or other exception dilatory, and although the same *Writ* be restored, the Tenants by the custome of the said City shall have the view in the second *Writ*, notwithstanding the first view had; And if the parties plead to Judgement the Judgement shall be given by

the mouth of the Recorder, and six Aldermen had wont to be present at the least, at every such Judgement given; and every Beadle by advise of his Alderman, against every *Hust.* of Pleas of Land shall cause to be summoned twelve men, being Freeholders of the best and most sufficient of his Ward, to come to the *Guild Hall*, to pass an Enquest if need be; if there be so many men of herirage within the same Ward; And if the parties pleading come to an Enquest, then shall the Enquest be taken of landed men, being Freeholders of the same Ward where the tenements are, and of other three Wards nearest adjoyning to the place where the Tenants are; so that four men of the same Ward where the Tenants are, shall be sworn in the same Enquest, if there be so many. And no damages by the custome of the City, are recoverable in any such *Writ* of Right Patent. And the Enquest may pass the same day by such common summons of the Beadle, if the parties be at Issue, and the Jurors do come; otherwise *Process* shall be made to cause the Jury to come at the next *Hust.* of Pleas of Lands by precept directed from the Major to the Sheriffs, and

and the Sheriffs shall be ministers by commandement of the Major to serve the *Writs*, and do the execution of the same, albeit the original be directed to the Major and Sheriffs in common; and you shall understand that as well the Tenants as Demandants may appoint their Attorneys in such Pleas. And if the Demandants plead against the Tenants in the nature of a *Writ* of Right, and the parties come to a Jury upon the meer Right, then shall the Jury be taken of twenty four, in the nature of a grand Assize, as alwayes the custome requi-
reth, that six of the Ward be of the Jury of twenty four. And the Tenants in all such *Writs* may vouch to warrant within the said City, and also in Forreign County, if the Vouchers be noe Tenants within the same City. And if the Tenants in such *Writs* vouch to warrant in Forreign County; In this Case *Process* cannot be made against the Voucher by the Law of the City; Then shall the Record be brought before the Justices of the Common Pleas at the suite of the Demandant, and then *Process* shall be made against the Vouchee; And when the Voucher shall be ended in the same

Court, then all the Parol shall be sent back again into the *Hust.* to proceed further in the Plea according to the custome of the City, and certain Statutes. And also if the Tenants in such Writ plead in Bar by release, bearing date in Forreign Countrey, or Forreign matter be pleaded that it cannot be tryed within the City, then the Defendant shall cause the *Prooess* to come into the Kings Court, to try the matter there where it is alleadged, as the matter is there found, the proceeding shall be sent back again into the *Hustings* to proceed further therein, as the Case requireth; And all that time the Suit shall cease in the *Hust.* as hath been heretofore: And also it hath been heretofore accustomed that a man may say in *Hustings* of Pleas of Land to have execution of Judgement given in *Hust.* in nature of *Seire facias* without *Writ*. And you must note that any such Summons made to the Tenants in a *Writ* of right Patent is made two or three days before such *Hust.* or the Sunday next before the same *Hust.*

Error
Fitz. 23,
S.

If Erroneous Judgement be given in the *Hustings* of *London* before the Major
and

and Sheriffs, it shall be reserved by Commission out of the *Chancery* directed to certain persons to examine the *Record* and *Process*.

If Erroneous Judgement be given before the Sheriffs in *London*, the Defendant may sue a Writ of Error before the Mayor and Sheriffs in the *Hustings*. Fitz. 24. S.

Hustings of Common Pleas

IN *Hust.* of Common Pleas are pleadable *Writs* called *Ex gravi querela*, to have execution of the Tenants out of Testaments, which are enrolled of Record in the *Hust.* *Writs* of Dower, *unde nihil habet*, *Writs* of *Gavelets* of Customes and Services instead of *Cessavit*, *Writs* of Error of judgment given before the Sheriffs, *Writs* of Waste, *Writs* of Participations *faciend.* among partners, *Writs* of *Quid iuris clamat & per qua servitia*, and other the *Writs* which are closed & directed to the Mayor and Sheriffs, and also *Replegiaries* of for goods and distresses wrongfully taken. These are pleadable before the Mayor and Sheriffs, in these *Hust.* of Common Pleas by plaint without *Writ*; And not as before, that the Sheriffs are Ministers to do the office of serving

Divers ancient customes and these Writs and Replegiaries by the Majors Precept directed to the same Sheriffs.

And the Process is thus.

First, in the *Writ* of *Ex gravi querela*, warning beforehand shall be given to the Tenants two or three dayes before the *Hust*, or the Sunday before, as in Plea of Land; And so shall be done of all other Summons touching the same *Hust*. And if warning be given and testified by the Sheriffs or his Ministers, the Tenants may not be *essoyned*; and if the Tenants make default at the same warning testified; then the *Grand Cape* shall be awarded; And if they appear, they may be *essoyned* at the view. And hereupon all other *Process* are made plainly, as is said in a *Writ* of *Droit Parent* in the *Hust*, in a Plea of Land.

In a *Writ* of *Dower*, *unde nihil habet*, the Tenants shall have at the beginning three Summons and one *Essoyn* after the three Summons, and after these shall have the view, one *Essoyn* and the Tenant in such *Writ* of *Dower* shall have the view, although they enter by the husband.

husband himself demanding the same, albeit he died seized; and also the Tenants may vouch to warranty, and after be esloyned after every appearance; and all other *Process* shall be made as in a *Writ* of right in the *Hust.* of Pleas of Land aforesaid: And if the Demandant recover *Dower* against the Tenant by default, or by judgement in Law in such *Writ* of *Dower*; And the same wife of the Demandant alledge in Court of Record that her husband died seized; Then the Mayor shall command the Sheriff by *Precept*, that they cause a Jury of the vicinity where the Tenants lie against the next *Hust.* of Common Pleas to enquire if the husband died seized, and of the value of the Tenements and of the damages; and if she recover by verdict the damages shall be enquired by the same Jury.

In a *Writ* of *Gavel*, the Tenants shall have three summonses, and three *Essoyns*, and they also shall have the view, they may vouch to warrant Dower and Forfeign. And they shall be *essoyned* and shall have other exceptions, and all other *Process* shall be made as in a *Writ* of Right, &c. But if the Tenant

make default after default, then the Defendant shall have Judgement to recover and hold for a year and a day, upon this condition, that the Tenant may come within the same year and a day, then next following, and make agreement for the Arrearages, and find Surety, as the Court shall award, to pay the rent, or the services faithfully from thenceforth, and shall have again his Tenements; and within the same year and day, the Tenant may come in Court by *Scire fac.* and shall have again his Tenements, doing as aforesaid; and if the Tenant come not within the year and the day, as is aforesaid, then after the year and the day, the Defendant shall have a *Scire fac.* against the Tenant to come and answer, whether he can say any thing why the Defendant ought not to recover the Tenements quite and clearly to him and his Heirs for ever; and if the Tenant come not to shew what he can say, then Judgement shall be given, that the Defendant shall quite recover the Land for ever, according to the Judgement, called *Shartford* by custome of the same City.

In a Writ of Waste, process shall be made

made against the Tenants by Summons, Attachment, and distress, according to the Statute in that behalf made; and if the Tenant come and plead, then he shall have an Essoyn, and so after every appearance; and if he make default at the Grand Distress, then shall Commandment go to the Sheriff by the Mayors precept, that the Sheriff shall come to the place wasted, and shall enquire of the waste and damages according to the Statute, and that they return the same at the next *Hust.* of Common Pleas, and the Plaintiff shall recover the place wasted, and the treble damages by the Statute.

In a Writ of Error of Judgement, given in Court before the Sheriffs in Actions personal, and in Assizes of Novel Disseizen. or *Mortdanc.* taken before the Sheriffs and the Mayor, shall make a Warrant to the Sheriffs, to cause the Record and Process to come at the next *Hust.* of the Pleas, and that they cause the parties to be warned to hear the Record, and after the Record and Process be in the *Hust.* although the Defendant come by warning, or make default, the Errors shall be assigned, and

and there the Judgement shall be affirmed or reserved, as the Law requireth. And it is to be noted, that by custome of the same City, that when a man is condemned in debt, or attaint of damages, in any action personal before the Sheriffs, and bringeth such a Writ of Error, he which bringeth the Writ, must before he be delivered out of Prison, find sufficient Sureties of men resident within the City to be bound before the Mayor and Sheriffs to pay the money or to bring in the body taken, if case the Judgment be affirmed; and in like sort is to be done where damages are recovered in Assize before the Sheriffs and Coroners.

In a Writ of *Replegiari*, the process is such, that if any one take a Distress or other sole thing within the said City, he which oweth the goods, may come to one of the Sheriffs, and shall have a Minister at the Commandment of the Court to go to the party that took the goods, and if he may have the view to praise them by two honest men, and then shall a plaint be made in the Sheriffs paper-Office in this wise. *T. S. queritur versus I. L. de averis suis injuste Capt. in*
Domum

usages of the City of London.

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Dominio suo vel in libero Tenemento suo in parochia Sancti. &c. And the same party shall then find two sufficient Sureties, to sue and make return of the Goods, or the price thereof, in case the return be awarded, and so shall have deliverance; and the Parties shall have a day prefixed at the next *Hust.* of Common Pleas, and then at the next *Hust.* of Common Pleas, the Sheriff shall make a Bill containing all the matter, and the plaint, and shall carry the Bill to the same *Hust.* and there it shall be put up on the file, and the parties shall be demanded at what day the one or the other may be effoyned of the common Effoyn; and if that day the Plaintiff maketh default, return shall be awarded to the Avowant, and return in such case is awardable three times by the custome of the City, and the third time not reparable; and at that time the Avowant maketh default, then it shall be awarded, that the goods remain to the Plaintiff; *viz.* that the goods remain without any recovering; and if it be that the Sheriff cannot have view of the Distress taken, then he shall certifie it into the said *Hust.* and there shall be awarded the

the *Wetherum*, and upon that, process shall be made; and if the parties come and Avowry be made, and pleaded in the Judgement, or to the Issue of the inquest, then shall Judgement be given or process, to cause the Jury to come, as the case requireth, and the parties may be Essoyned after appearance; and if the party claim property in the Distress, and then certifie the same in the *Hust*, and the process shall be made by precept made to the Sheriff to try the property, &c. And although the party be essoyned of the Kings service in a *Replegiare*, and at the day that he hath by Essoyn, make default; or bringeth not his Warrant, he shall not be cleared of damage.

In a Writ of *Participat. faciend.* to make partition between Parceners of the Tenants in *London*; the Writ closed, shall be directed to the Mayor and Sheriffs, containing the matter according to the form of such Writ, and the parties shall be warned by precept from the Mayor directed to the Sheriff, and the Tenants may be essoyned, and if they come, they may plead their matter; and if they make default, the Writ of Partition shall be

be awarded by default; and every Beadle of the said City, by the advise of his Alderman against every *Hust.* of Common Pleas, shall cause to be summoned twelve men, being Free-holders, of the best and most sufficient of his Ward, to come to the *Guild-Hall* aforesaid, and to pass in Juries, if need be, if there be so many men landed in the said Ward; and the Juries shall be taken, as before is said in the *Hust.* of Plea of Land.

And note, that Writs of Exigent are taken out of the *Hust.* as well in *Hust.* of Common Pleas, as of Pleas of Land, but those Exigents that are taken in the one *Hust.* are not to be sued in the other *Hust.* and at the fifth *Hust.* the Utlaries and Weyneries shall be given in full *Hust.* before the Mayor and Aldermen by the mouth of their Recorder; and also all Judgements which are given in the *Hust.* shall be given in the same manner and the Exigent after every *Hust.* shall be enrolled, and sent into the Chamber of the *Guild-Hall* aforesaid.

And you must note, that all Amerciaments incident to the said *Hust.* pertain to the Sheriffs of the said City; and that
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the Aldermen of *London* shall be summoned to come to the *Hust.* and by custome of the City to be summoned by one of the Sheriffs Officers, sitting upon a horse of a C. s. price at least.

Affize of Mort d'Ancest. in *London.*

THe Affizes of *Mort d'Ancest.* holden and determinable before the Sheriffs and Cotoners of *London*, on the *Saturdays*, from fourteen days to fourteen days at the *Guild Hall*, for which the Process is this *viz.* he that will have such Affizen, shall come in the *Hust.* or into the Assembly of the Mayor and Aldermen in the Chamber of the *Guild Hall*, any Munday, as is said in the Affize of fresh force, and shall make a Bill containing the form of the Affize of *Mort d'ancest* according to the case, and that Bill shall be enrolled, and after the common Clerk shall make another Bill containing all the matters of the first Bill, making mention of the title of the *Hust.* or of the day of the assembly of the Mayor and Aldermen, and this Bill shall be sent unto the Sheriffs, or either of them

them to serve, according to the custom ; and which Bill shall be served by any Serjeant or other Minister of the Sheriffs viz. the said Serjeant the Wednesday next after the delivery of the Bill, shall make Summons to the Tenants demand, by witnesses of two Free-holders, men of the City, that they be at the *Guild Hall* the Saturday next following to see the Recognisance, if they will ; against which Saturday, the Defendant may sue the next Friday before together, and summon the Jury; and so afterwards against the Saturdays, from fourteen dayes to fourteendayes at his will, and so may the Tenants sue if they will, for their deliverance ; and the gathering of the Pannels of such Juries shall be done by the Sheriffs and their Ministers, or by the Mayor and Aldermen, if any of the parties will require it upon any reasonable cause, in such sort as is used in Assize of Fresh-force, and in such Assizes of *Mort d'ancest*, the parties may be assigned as at the Common Law, and the Tenant may vouch to warrant within the City, and also in Forreign Country, if the Vouchee have no Lands within the City, and if the Tenants plead release,

lease, bearing date in Forreign Countrey, or other Forreign matter that cannot be tryed within the City, or that the Vouch to warrant in Forreign Countreies, he that hath nothing within the City, then at the Suit of the party, shall cause the Record to come into the Kings Countrey, by Writ directed to the Sheriff and Coroner and there shall such Forreign Pleas, and Forreign Vouchers, be tryed and determined, and sent back again to the said Sheriffs and Coroners, to go forward and proceed, according to the custome of the City; and continuance shall be made in such Assizes upon the causes proceeding, and upon other causes reasonable; and when the Assizes shall be determined and Judgement given, then the same Assizes shall be ingrossed, and entred upon Record, by the said Sheriffs and Coroners, and afterward sent to the *Guild-Hall* to remain there of Record, according to the Order of Assize of Fresh-force, hereafter following.

Assize

usages of the City of London.

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*Affizes of Novel Disseizen, called
Fresh-force in London.*

THe Affizes of *Novel Disseizen*, called *Fresh force* of *London*, and Tenements and Rents within the City of *London*, of *Disseizins* made within 40. weeks, are holden and determinable before the two Sheriffs, and the Coroner of the said City in common, every Saturday in the *Guild-Hall*; except certain times wherein the Affize cannot be holden for reasonable cause, and the process thereof is such, *viz.* when any man is grieved, and that he be disseized of his Free-hold within the said City, or the Suburbs of the same; he shall come to any *Hust.* holden at the *Guild-Hall*, or for default of *Hust.* in the Chamber of the *Guild-Hall*, in the Assembly of the Mayor and Aldermen any Munday, and shall make there a Bill, and the Bill shall be such, *viz.* *A de B. queritur versus ff. C. de D. de libera tenemento suo in parrochia de E. in Suburb. London.* And the same Bill shall be inrolled, and upon that shall be made another Bill. containing all the matter of the first Bill, by the common Clark of

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the City, making mention of the title of *Hust.* or of the day of the Assembly of the Mayor and Aldermen, and then the Bill shall be sent to the Sheriffs, or to either of them to do process and right unto the parties, and then although the Bill be served the Wednesday then next following, that is to say, the Minister of the Sheriffs to whom the Bill is delivered, shall summon the Tenant or Tenants named in the said Bill of Assize, by the view of two Freemen of the City, and that of the Tenants from whom the rent is supposed to be issuing, and then it shall be said to the Tenants, that they keep their day at the *Guild-Hall* the Saturday then following at their peril, and the names of those which are summoned, shall be endorsed upon the backside of the Bill, and then may the Plaintiff sue to have the Assize gathered, and the Jury summoned against such Saturday, or against other Saturday after at his pleasure, and so may the Tenants sue for their deliverance, if they will, and such summons shall be made the Friday before the said Saturday, and the Array of the Pannels of the Juries shall be made by the Sheriffs or their Ministers,
or

or by the Mayor and Aldermen, if any of the parties upon reasonable cause shall require it. Also the same Assizes shall be pleaded and recorded for the greater party, also as elsewhere at the Common Law; and if release bearing date in Forreign County, bastardy, or other forreign matters which cannot be tryed within the said City, be alledged in such Assizes, then the Plaintiff may sue, and cause to come the Record in the Kings Court, that the matter may be tryed, as the cause requireth; and when the matter is there determined, the process shall be sent back to the said Sheriffs and Coroners, or to their Successors to proceed forward before them, according to the custome, &c. And you must note, that there is no discontinuance in such Assizes, neither is any mention made in the Record of the dayes between the Assizes taken, and the day that the Assize shall be taken, or Judgement given, if it be not by necessary cause, or that such Assizes be adjourned for special causes; and when the Assizes are taken before the Sheriffs, and Coroners, as before is said and Judgement be given, then shall such Assizes deter-

mined be entred of Record; and afterwards shall be carried into the Chamber of the *Guild-Hall*, to remain there in the treasury upon Record. And note, that no man may enter into any Tenements within the said City by force, nor any Tenants hold by force and armes in disturbance of the peace.

De Curia Majoris London & Custumis Civitatis ejusdem & Diversis Casibus terminalibus in eadem Curia.

C*uria Majoris* of the said City of London, is holden by the custome of the same City before the Mayor and Aldermen for the time being in the Chamber of the *Guild-Hall* or in *Hust.* and that from day to day; and there are treated, determined and discussed the Pleas, and matters touching Orphans, Apprentices, and other businesses of the same City. And there are redressed and corrected the faults and contempts of those which do against the custome and ordinance of the City, as well at the suit of the parties, as by Enquest of Office, and in other sort by suggestion according as the causes require;

quire; and there they use to justifie Bakers, Victuallers, and Trades-men, and and to treat and ordain for the Government of the City. and for keeping the Kings peace and other necessary points of the City, and according as the time requireth.

Item the Officers and Ministers of the said City being found faulty are to be cleared before the Mayor and Aldermen, as well as the Scit of the parties by Process made, as otherwise, according to the discretion of the said Mayor and Aldermen.

Item, the said Mayor and Aldermen use there to hold, and determine Pleas of Debt and other Actions personal whatsoever, by Bill as well among Merchants, and Merchants for Merchandize, as also between others that will plead by Process made against the parties

Item, the Mayor and Aldermen, or the Mayor and Chamberlain of the said City take before them in the said Chamber Recognizances of Debt of those that will, of what summes soever. And if the day of payment be missed, then he to whom the Recognizance is

made out of this Record, ſhall have execution of all the Debtors Goods, and of the moyety of his Lands within the ſaid City, and it is taken as at the Common Lawes.

Item, Pleas of Debt according to the Ordinance called the Suir of *Smithfield*, are determinable only before the Mayor and Aldermen according as is more plainly ſet down in the Ordinance thereupon made.

Item, the Affizes of Nuſance are determinable by plaint before the Mayor and Aldermen, and that plaint ſhall be ſerved by the Sheriff the Wednesday againſt the Friday; and then the Mayor and Aldermen ought to proceed in Plea according to that which is ſet down in the Act of Affize and Nuſance in the ſaid City.

Item, the Mayor and Aldermen have alwayes uſed [to ſet down penal Acts upon Victuals, and for other governance of the City and of the peace, according to their diſcretion and advice, and proclaim the ſame Ordinance within the ſaid City open y to be kept in the Kings name, and of the City upon that penalty ſet down, and ſhall levie all thoſe penalties]

nalties of those which do contrary to the Ordinance aforesaid.

Item, the Mayor and Aldermen have alwayes used, and may by custome of the same City cause to come before them the offenders which are taken within the said City for Lies and false Noses noised abroad in disturbance of the Peace Makers, and Counterfeiterers of false Seales, and false Evidences, and for other notorious deceits known to them, which they shall find faulty of such malefactours by confession of the parties or by enquest, and then take them and punish them by the Pillory or other chastisement by imprisonment, according to their discretion.

Item, the Mayor and Aldermen have alwayes accustomed, and may by custome of the said City, change Process, abridge delays in actions personal as well before themselves, as in the Sheriffs Courts, and to make new Ordinances touching personal Pleas which Ordinances they understand to be reasonable and profitable for the people.

Item, you must note that all the City of *London* is held of our Sovereign Lord the King in Free Burgage, & with-

out the same City, and of all the Lands and Tenements, Rents, and Services within the same City, and the Suburbs of the same, are well in Reversion, as in Demesne, are devisable by Usage of the said City, so that men and women by Usage of the same City, may devise their Tenements, Rents, and Reversions within the said City and Suburbs of the same, to those whom they will, and of what Estate they will; and they may also devise new rent to be taken of the same their Tenants; in such sort as best shall seem unto them by their Testament, and by their last Will; and those which are Freemen of the same City, may devise their Tenements to *Mortmain*, as appeareth by the Kings Charter to that effect made.

Item, He which holdeth Tenements joyntly with others, may devise that which belongeth to him, without any other separation; but Infants within age can make no devise, nor woman under coverture, cannot devise their Tenements by leave of their Husbands, nor in any other sort during the coverture,
49. 7. 325. *per. Cur.*

Also the Husband cannot devise Tenements

Tenements to his Wife for any higher E- This is
 state, then for term of life of his Wife, now alter-
 neither can the Wife claim any further ed by the
 Estate, upon pain of losing the whole, Stat. of 3a.
 neither can the Husband devise the Te- H. 8. ca. 1.
 nements in the right of his Wife nor the of Wills.
 Tenements which the wife and the hus-
 band have jointly purchased; but if the
 Husband and Wife have Tenements
 jointly to them and the Heirs of the
 Husband, the same Husband may devise
 the Reversion, and all the Testaments
 by which any Tenements are devised,
 may be inrolled in the *Hust.* of Record,
 at the suit of any, which may take ad-
 vantage by the same Testaments, and
 the Testaments which are so to be inrol-
 led, shall be brought, or caused to be
 shewn before the Mayor and Aldermen
 in full *Hust.* and there the said Will shall
 be proclaimed by the Serjeant, and then
 proved by two honest men well known,
 which shall be sworn and examined se-
 verally of all the circumstances of the
 said Will, and of the Estate of the Testa-
 tor, and of his Seal; and if the proofs
 be found good and true, and agreeing,
 then shall the same Will be inrolled upon
 Record in the same *Hust.* and the Fee
 shall

*Testaments
shall be paid for the Inrolment, and no
Testament nuncupative, nor other Te-
stament may be inrolled of Recod, un-
less the Seal of the party be at the same
Will; but Wills that may be found good
and true are effectual, albeit they are
not inrolled of Record.*

shall be paid for the Inrolment, and no Testament nuncupative, nor other Testament may be inrolled of Recod, unless the Seal of the party be at the same Will; but Wills that may be found good and true are effectual, albeit they are not inrolled of Record.

Item, Testaments within the said City ought by custome, of the same City to be adjudged effectual; and Executors have respect to the Wills of the Testators; albeit the words of such Wills be defective, or not accordidg to the Common Law.

Item, Where Reversions or Rents be devised by Will inrolled in the Hust. of Record, the same Reversions and Rents after the death of the Testator, are so Executed, that those to whom such rents are devised, may distrain for the rent, and make avowry, and those in reversion may sue a Writ of Waste at their will, without any Attornment of the Tenants, and may plead by the same Inrolment, if need be, although they have not the same Testament, and the same custome taketh place for Deeds of Land inrolled in the Hust. of Record and such Inrolments have been alwayes used,

and so, that the Wills are proclaimed and proved in full *Hust.* as is aforesaid; and Deeds indented, and other Writings sealed may be accepted, and the knowing and confession of women may be received before the Mayor and one Alderman, or before the Recorder and one Alderman, or before two Aldermen by need, as well out of the Court as in, so that the same Charters, Indentures, and other writings so acknowledged, be afterwards entered and inrolled in any *Hust.* and the Fees paid as the Order

Item, where a man hath devised by his Will enrolled certain rent to be taken of his Tenants within the said City without a cause of distress, yet by custome of the said City he to whom the devise is made, may distrein and now the taking for the rent behind, and in the same sort it shall be done for Amerciaments, Rents called quit-rents within the said City.

Item, the Mayor and Aldermen which are for the time being, by custome of the same City shall have the Wards and carrying of all the Orphans of the said City after the death of their Ancestours;

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although the same Ancestors held elsewhere out of the City, of any other Lordship by what service soever; and the same Mayor and Aldermen ought to enquire of all the Lands, Tenements, Goods and Chattels within the same City pertaining to such Orphans, and the Lands, Tenements, Goods and Chattels within the same City, pertaining to such Orphans, to seize, and safely keep to the use and profit of such Orphans, or otherwise to commit the same Orphans, together with their Lands, Tenements, Goods and Chattels to other their friends, upon sufficient Surety of Record in the Chamber of the *Guild-Hall*, in convenient sort to maintain the same Orphans, during their minority, and to repair their Lands and Tenements, and safely to keep their Goods and Chattels, and to give good and true accompt before the said Mayor and Aldermen of all the profits of the same Infants when they come to age, or be put to a trade, or married at the advice of the said Mayor and Aldermen; and that in all cases, if it be not otherwise ordained and disposed for the same Orphans, and their Lands, Tenements,

Goods

Goods and Chattels, by expresse words contained in the same Wills of their Ancestors; and no such Orphans may be married, without consent of the said Mayor and Aldermen: And in like manner, where Lands, Tenements, Goods or Chattels within the same City, are devised to a Child within age, of a Citizen of the same City, his Father living, and the same Child be no Orphan, yet by custome of the same City, the said Lands, Tenements, Goods and Chattels shall be in the custody of the Mayor and Aldermen, as well as of an Orphan, to maintain and keep the said Lands, Tenements, &c. to the use and profit of the said Infant, and shall give good and true account for the same, as is aforesaid. And note, that where a Citizen of the same City hath a wife and children, and dieth (all debts paid) this Goods shall be divided into three parts, whereof the one part shall come to the dead, to be distributed for his Almes, the other part shall come to his wife and the third part to his children, to be equally parted amongst them, notwithstanding any device made to the contrary; and for the same, the wife or children, or any of them, may have their recovery and
 suit,

suit, to demand such Goods and Charels against the Executors or Occupiers of the same Goods and Charels, before the same Mayor and Aldermen by plaint.

Item, by ancient custome of the said City it was not lawful to any Stranger or Forreigner to sell Victuals or other Merchandizes to any other Stranger or Forreigner within the same City to buy again, nor to any such Forreigner or Stranger to sell Victuals or any other Merchandize within the said City by retail.

Item, by ancient custome of the said City of London the Citizens and Ministers of the same City are not to obey any Commandment or Seals except the Commandment and Seal of our Sovereign Lord the King immediate, neither can any of the Kings Officers make any Seizure or Execution within the said City, nor within the Franchises of the same by Land nor by Water (except only the Officers of the City aforesaid.)

Item, touching the Judgements given in the Sheriffs Court in Actions personal, or in Affizes taken before the Sheriffs and Corovers by custome of the said

said City the parties against whom such Judgements are given, may sue a writ of Error directed to the Mayor, Aldermen and Sheriffs to reverse the said Judgements in the *Hust*, and if the Judgements be found good, yea, though the same Judgements be affirmed in the *Hust*, yet the same party may sue another writ of Error directed to the Mayor and Sheriffs to cause the Record to come before the Justices assigned at Saint *Martin le Grand* as hath been heretofore done. But if any party by such Judgements given before the said Sheriffs, be convicted in Debt or Damages; and is therefore committed to Prison until he hath made agreement with the party, and afterwards pursueth a Writ of Error to reverse the Judgement in the *Hust*, where although the Judgement be affirmed, and the same party will sue another Writ of Error to reverse the same Judgement before the Justices assigned at Saint *Martin* as is aforesaid, yet nevertheless the same which is so in person must not be delivered out of Prison, by ancient custom of the same City by means of any such Writ of Error, until he have found sufficient Sureties within the said City,

City, or laid in the money into the Court to pay him that recovered the same, if in case that the Judgement be afterwards affirmed. And in case that such Writ of Error be sued to reverse any Judgement given in the *Hust.* before the Justices assigned at *Saint Martins le Grand*, and it be commanded by Writ to safe keep the parties, and to cause the Record, and Process to come before the same Justices, then shall the parties be kept as the Law requireth. But no Record may be sent before the same Justices, but that the Mayor and Aldermen shall have fourty dayes, respire by appointment of the same Justices after first Sessions then to advise them of the said Record, and of the Process of the same, and at the first Sessions of the Justices after fourty dayes, shall the said Process and Record be recorded before the same Justices by mouth of the Recorder of the said City. And of Judgements given before the Mayor and Aldermen in the Chamber of the *Guild-Hall*, according to the Law Merchant no Writ of Error is wont to be sued,

Item,

Item, by ancient custome of the said City all the Liberties and Priviledges, and other customes belonging to the said City, are usually recorded by mouth, and not to be sent or put elsewhere in writing.

Item, the Citizens of *London* by custome of the City ought not by any Writ to go out of the City in any sort to pass upon an Enquest.

Item, the Wife after the death of her Husband by custome of the City shall have her Frank Bank; *viz.* a woman after the death of her husband shall have of the Rents within the same City, whereof her husband died seized in Fee. And in that Tenement wherein the husband and she did dwell together at the time of the death of the husband, the woman shall have to her self wholly the Hall, the principal chamber, and the cellar wholly; and shall have the use of the Oven, the Stable, Rivy and Yard in common, with other necessaries thereto belonging for her life; and at that hour that she is married, she loseth her Frank Bank and her Dower of the same, saving her Dower of other Tenements as the law requireth.

Item, every Freeman of the said Ci-

tyusing Trade, may by custome of the same City take an Apprentice to serve him, and learn him his Art, and Myſtery, and that by Indenture, to be made between him and his ſaid Apprentice, which Indenture ſhall be examined and enrolled of Record before the Chamberlain of the *Guild-Hall*, and ſuch Apprentice may bind himſelf, or his friends may put him to a Trade by their Indenture, if he be of convenient age, at the diſcretion of the Chamberlain, or Mayor and Aldermen, if need be. And no Apprentice by cuſtome of the ſaid City may be bound for leſſe term then ſeven years, and the Indenture muſt be enrolled within a year after the making thereof upon a certain penalty ſet down. And after that ſuch Apprentice hath well and ſufficiently ſerved his term, he ſhall be made a Freeman of the ſaid City without other redemption, whereas no other may come by the Freedom without redemption, except thoſe which are born within the ſaid City of what country ſoever they be under the obeyſance of our Sovereign Lord the King, by cuſtome of the ſaid City are alſo Free by their birth,

birth, having respect to the Priviledges of the Freedome; As those which have been Apprentices or otherwise been made Free by redemption; and Women under Covert Bars using certain Crafts within the City by themselves, without their Husbands may take Maides to be their Appreptices to serve them, and teach them their Trade, which Apprentices shall be bound by their Indenture of Apprentiship to the Husband and the Wife, to learn the Wives Trade as is aforesaid. And such Indenture shall be enrolled as well as the other. And note, that any one having such Apprentice, may sell and devise his said Apprentice to whom he will being of the same Trade, as well as his Chattel.

Item, the *Thames*-water so far as the bounds of the Freedom of the City doth stretch, is parcel of the City. And the same Water and every Appurtenances within the said Franchise, hath alwayes been governed by the same City as parcel of the same City, as well the one part of the Water as the other. And the Sheriffs of *London* for the time being, have alwayes used to do arrests and executions at the suit of the parties in

the said Water of *Thames*, viz. from the East-side of the Bridge of *London* to *Roccoly*, and from the West part of *London* Bridge to *Stanes* Bridge.

Item, the Sheriffs of *London* ought by custome of the City to have the forfeiture of all Fugitives and Felons goods whatsoever, as well within the said City, as the Water of *Thames*, in and of their Farm, which they pay yearly to the King.

Item, by custome of the City no attain is maintainable nor lieth within the City.

Item, by Ancient custome of the same City, no man dwelling within the same City, can be taken, nor led out of the City by colour or claim of villeinage, before the matter be discussed by order of Law.

Item, if a Freeman of the said City coming or going with merchandize elsewhere, out of the same City, be constrained to pay Toll or other custome, or that his Goods be arrested or carried away wrongfully without reasonable cause, and not delivered again by the Corporation of the Town where complaint is made, and it be sufficiently

led by credible men, then if afterwards
the Goods or Merchandizes of him
that did the wrong, or the Goods of
Merchandizes of any other of the same
Town where the wrong was done, be
found within the City of London, it
is the custome at the suggestion of the
property to arrest such Goods and Mer-
chandizes by the Officers of the City,
and to detain them in the name of *vi et
contra* until agreement be made with
the said Freeman for his damages. It
is ordained in that behalf, except always rea-
sonable answer be alledged by one or other
party. *Item*, the Citizens of London in an-
cient time ordained a House called the
Tower in *Cornehill*, whereunto the Con-
stables, Beadles, and other Officers, and
men of the City did accustom to bring
Trespasseurs of the Peace, married men
and women found to Adultery, and
Chaplains, and other Religious men
found openly, with common women, or
married women in suspicious places, and
after to bring them before their Ordina-
ries. *Item*, the City of London hath con-
sistance of Pleas by the Kings Charter,

and the use is, that no Freeman of the said City shall implead another Freeman of the same City, elsewhere then in the same City, where he may recover within the said City, upon pain of losing his Freedome.

Item, he which is Mayor of London for the time shall have an Hanap, or a Golden Tanker at the Coronation of every King, with other priviledges belonging to the said Mayor and City, at such Coronation of the King by ancient custome of the same City.

Item, the customes is that the Kings chief Butler shall be chief Coroner of the City of London, which Coroner useth by Writ to substitute another in his place, who is called Coroner before whom the Indictments, and Appeales within the said City, are taken, and in whose name the Records are made; and all the Indictments, and Appeals within the said City are taken before the two Sheriffs and Coroners joyntly; and the Juries taken for the death of any man upon view of the Corps, are gathered out of the four Wards nearest, and summoned by the Beadles of the same Ward.

and all other Juries to be taken, before the Sheriffs and Coroner in common, ought to be taken and summoned by the Sheriffs and their Officers.

Item, heretofore where any Thief in *New-Gate* did appeal another Thief being in another Goale, that Thief in the other Goale is to be sent by Writ unto *New-Gate* to answer to the same Appeal, and to be at his delivery there. And in the same sort if a Thief being in another Goale do appeal another being in *New-Gate*, or any other within the said City, the same appellated must be brought by Writ to the same Goale of *New-Gate*, to maintain his said Appeal. And no Thief being in *New-Gate* taken with the manner, ought to be sent elsewhere with the manner for his deliverance but only to have his deliverance, before the Mayor of *London*, and other Justices assigned for the said Goale of *New-Gate*.

Item, because the *Burrough* of *Southwerk*, and place of common Stewes on the other side of the Water of *Thames*, are so hurtful to the City of *London*, and Theeves, and other

malefactours are often coming thither, and many times after their Thefts, and Fellowies done within the said City, they fly and retire out of the same City unto the Stewes, and into South-wark, out of the Liberties and Power of the City, and remain there doing mischief, watching their time to come back and do mischief, there the Officers of the said City have used always to pursue, and search such Theeves and ill doers in the same Stewes and Town of South-wark, as well within the Liberty as without, and bring them to *New gate*, to stay there for their deliverances, before the Justices as well for open suspicion, as at the Suit of the party.

Item, the Prisoners which are condemned or arrested within the said City, and are committed to Prison at the Suit of the party; and afterwarde are sent by Writ to the Exchequer or any other the Kings places with their Causes, the same Prisoners after they are delivered in the Kings Court, ought to be sent to the said City to answer to the parties, and stay there for their deliverance.

Usages of the City of London.

Tri

Item, those which have Tenements within the said City, shall not be suffered to strip or waste their Tenements Demesne, nor to pull them down in deforming or defacing of the City, unless it be to amend them, or build them up again, and any that doth it, or beginneth to do it, shall be punished by the Mayor and Aldermen for the offence, according to the custome of the City.

Item, if Walls, Penhouses, or other Houses whatsoever within the said City stretching to the High Street, be so weak or feeble, that the People passing by mistrust the peril of some suddain Ruine, then after it is certified to the Mayor and Alderman by Mason, and Carpenter of the City sworn, or that it be found in the Wardmore that the danger is such, then the same Mayor and Aldermen shall cause the parties to be warned to whom the same Tenements belong, to amend them, and repair them so soon as conveniently he may; and if after such warning they be not amended, nor begun to be amended within forty dayes then next following, then shall the said Tenements

ments be repaired and amended at the
cost and charges of the said City, and
the costs be fully levied of his Goods
and Chutrels or other his Tenements
need be.

Item, if any House be found within
the said City, or the Suburbs of the same
covered with Straw, Reed, or Thatch,
he to whom the House belongs
shall pay to the Sheriffs for the same
being forty shillings, and shall be
compelled to take away the same cover-
ing.

Item, if any House within the said
City be burning, so that the flame of
the Fire be seen out of the House,
which dwelleth in the said House shall
pay to the Sheriffs forty shillings in a
Purse.

Item, the Mayor, Aldermen, and
Sheriffs, and all other Officers and
Ministers of the said City are to be
chosen by the same City; viz. At such
time, when the Mayor should be chosen,
the commons of the same City
shall by custome be assembled in the
Guild-Hall, and the same commons
shall make election of two honest
men of the said City, of whom the

shall be Mayor, and the names of
the said two honest men shall be car-
ried before the Mayor and Aldermen
which are for the time within the
Chamber of the *Guild-Hall*; And then
one of them shall be chosen to be
Mayor by the said Mayor and Alder-
men by way of Screame, and the
said Mayor so newly chosen the mor-
row after the Feast of *Simon and*
Jude, shall be presented before the
Barons of the Exchequer at *Westmin-*
ster, or in their absence to the Consta-
ble of the *Tower*; and afterwards shall
be presented to our Sovereign Lord
the King himself, according to the con-
tents of the Charter of the said Ci-
ty, and the said Mayor shall have the
Government of the said City under the
King for the year following, and the
said Mayor shall take fifty Marks a year
for the of Corn and fifty
Marks in time of Peace of the Mer-
chants of *Auxens*, *Corby*, and *Neola*;
According to the ancient Orders there-
in made; and every Mayor shall hold
a general Court at the *Guild-Hall*
on the Munday after the Feast of the *Epi-*
staphay, and then shall be assembled
all

Divers ancient customes and

all the Aldermen of the same City, and all the Constables, Scavengers, and Beadles shall be sworn anew, well and faithfully to do their office; during the time they shall be Officers; and the Wardmotes held by the Aldermen; and the default found, shall be then delivered up by the said Aldermen in writing, and the default found in the Wards shall be enquired and examined, and the Mayor for the time being, by custome of the same City, for maintenance of the Peace, and for the quiet of the City, hath authority to arrest and imprison the offenders of the Peace, and other malefactors, for rebellions, or lewd expenses, and other defaults, according to their discretion, without being apprehended, or afterwards impleaded for the same.

Item, No Mayor shall be chosen within the said City, before that he hath been Sheriff of the same City a year before,

Item, The Mayors of London which have been for the time, are accustomed

med to have their Sword born upright before them within the said City, and without the putting the same down in the presence of any, except the King, and that Sword is called the Kings Sword.

Also the Sheriffs of *London* are chosen by custome of the said City, on *St. Matthews* day in the *Guild-Hall*, viz. the one shall be chosen by the Mayor, and the other by the Commons, and the said Sheriffs shall afterwards be sworn within the said *Guild-Hall*, and the morrow after *St. Michal*, presented into the Exchequer by the Constable of the Tower, according to the form of the Charter of the City, as is aforesaid; and the same Sheriffs shall have Free Election of all their Officers, and of their Farmours and Bayliffs, as well within the City as the County of *Middlesex*, and of the Goalers of the Prisons within the said City at their will, and the same Sheriffs pay, and are Accomptants yearly to the Kings Exchequer, for the Farm of the said City and County of *Middlesex*, according to the form of the said City and Charter; and by reason

son of that Farm, the said Sheriffs ought to have the ancient Tolls and Customes of Merchandizes coming into the City, and going out of the same; and Forfeitures, Fines, and Amerciements, and all other commodities of ancient time belonging to their Office: And no Merchandizes shall pass out of the City by Land nor by Water, by Cart, Horse, nor Portage by men, without a Warrant sealed by the said Sheriffs; and Forreigners must pay for their Issue, according to the ancient custome.

Item, The Aldermen every year are elected at the Feast of St. Gregory, and sworn, and presented to the Mayor, and the said Aldermen are chosen by men of the same Ward, which Aldermen ought to keep their Wardmores.

Item, Upon the death of the Alderman of any Ward, the Inhabitants in the Ward are to chose a new Alderman for their Ward, whom they think good, and are to certifie the Lord Mayor of their choice, who is to declare the same to the Court of Aldermen at their next meeting, and then to give the Ward

rice of their liking of the choice; but if it be an ease and quiet Ward, then by order, either the Lord Mayor, or eldest Knight on the Bench, is to have the same Ward, as Alderman thereof; yet the Election is in the Ward absolute of themselves, whom they will chuse.

Reports



THE
COMMISSION
AND
ARTICLES
OF THE
WARD-MOTE
INQUEST.

By the
MAYOR;

To the Alderman of the ward,

1. **VV**E charge and Ward-
command you, more, In-
that upon St. quest for

Thomas the Apostle next coming, you a year,
do hold your Ward-mote, and that you
have afore us at our general Court of

K

Alder-

Aldermen to be bolden in the *Guild-Hall*, the Monday next after the Feast or the Epiphany next coming, all the defaults that shall be presented afore you by Inquest in the said Ward-mote, and the said Inquest shall have full Power and Authority by one whole year to inquire and present all such defaults as shall be found within your said Ward, as oftentimes as shall be thought to you expedient and needful, which we will shall be once every moneth at the least.

Inquest
dying.

2. And if it happen any of your said Inquest to die, or depart out of your said Ward, within the said year, that then in place of him or them so dying or departing out of your said Ward, you cause to be chosen one able person to inquire and present with the other in manner and form aforesaid.

Non appearance.

3. And that at the said general Court, you give afore us the Names and Surnames of all them of your said Ward, that come not to your said Ward-mote, if they be duely warned, so that due redress and punishment of them may be had, as the case shall require according to the Law.

4. And

4. And that yea do provide, that at all times convenient, covenable Watch be kept: and that the Lanthornes with Light by Nightertaille in old manner accustomed, be hanged forth, and that no man go by Nightertaille without Light, nor with Visard, on the perill that belongeth thereto.

5. And also that you do cause to be chosen, men of the most sufficient, honest, and discreet men of your said Ward, to be for your said Ward of the Common Council of this City for the year ensuing, according to the custome in that behalf yearly used. And also that you do cause the said Men so to be chosen to be of the Common Council, to be sworn before you and in your presence, according to the Oath for them used, and of old time accustomed, the Tenor of which Oath hereafter ensueth.

K a

The

The Oath.

YE shall swear, that you shall be true to our Sovereign Lord the King that now is, and to his Heirs and Successors Kings of England, and readily ye shall come when ye be summoned to the Common Council of this City, but if ye be reasonably excused, and good and true Council, ye shall give in all things touching the Commonwealth of this City, after your wit and cunning: and that for favour of any person ye shall maintain no singular profit against the common profit of this City, and after that you be come to the Common Council, you shall not from thence depart until the Common Council be ended without reasonable cause, or else by the Lord Mayors License. And also, any secret things that be spoken or said in the Common Council which ought to be kept secret, in no wise you shall disclose as God you help.

And that together with the said Oath of their Office, you administer to the said persons that shall be chosen of the Common

mon Councel, the Oaths of Supremacy and Allegiance, and the other Oath hereafter following.

I A B Do utterly testifie and declare in my Conscience that the Kings Highness is the only Supreme Governour of this Realm; and of all other his Highnesses Dominions and Countries, as well in all Spiritual or Ecclesiastical things or causes as Temporal; And that no forreign Prince, Person, Prelate, State or Potentate, hath or ought to have any Iurisdiction, Power, Superiority, Preheminence, or Authority, Ecclesiastical or Spiritual within this Realm: And therefore I do utterly renounce and forsake all forreign Iurisdiccions, Powers, Superiorities and Authorities, and do promise that from henceforth, I shall bear Faith and true Allegiance to the Kings Highness, his Heirs and Lawful Successours, and to my Power shall assist and defend all Iurisdiccions, Priviledges, Preheminences and Authorities, granted or belonging to the Kings Highness, his Heirs and Successours, or united and annexed to the Imperial Crown of this Realm. So help me God, and the contents of this Book.

I A B Do truly and sincerely acknowledge, profess, testify and declare in my Conscience before God and the World, that our Sovereign Lord King Charles is lawful and rightful King in his Realm, and of all other his Majesties Dominions and Countries: and that the Pope, neither of himself, nor by any Authority of the Church or See of Rome, or by any other means with any other, hath any Power, or Authority to depose the King, or to dispose any of his Majesties Kingdomes, or Dominions, or to authorize any forreign Prince to invade or annoy him or his Countries, or to discharge any of his Subjects of their Allegiance and Obedience to his Majesty, or to give License or leave to any of them to bear Arms, raise Tumults, or to offer any violence or hurt to his Majesties Royal Person, State or Government, or to any of his Majesties Subjects within his Majesties Dominions. Also I do swear from my Heart, that notwithstanding any Declaration or Sentence of Excommunication or Deprivation made or granted, or to be made or granted by the Pope, or his Successors; or by any Authority derived, or
pre-

pretended to be derived from him or his
See, against the said King, his Heirs or
Successors, or any Absolution of the said
Subjects from their Obedience; I will
bear Faith and true Allegiance to his Ma-
jesty his Heirs and Successors, and him
and them will defend to the uttermost of my
power, against all Conspiracies and At-
tempts whatsoever, which shall be made a-
gainst his and their Persons, their Crown
and Dignity, by reason or colour of any
such Sentence or Declaration, or otherwise;
and will do my best endeavour to disclose,
and make known unto his Majesty, his
Heirs and Successors, all Treasons and
traiterous Conspiracies, which I shall know,
or hear of to be against him or any of them.
And I do further swear, that I do from
my Heart abhor, detest and abjure, as
Impious, and Heretical, this damnable
Doctrine and Position, that Princes which
be excommunicated or deprived by the
Pope, may be deposed or murdered by
their Subjects or any other whatsoever. And
I do believe, and in Conscience am resolv-
ed, that neither the Pope, nor any person
whatsoever hath power to absolve me of
this Oath, or any part thereof, which I
acknowledge by good and full Authority

to be lawfully administred unto me, and do renounce all Pardons and Dispensations to the contrary. And all these things I do plainly and sincerely acknowledge and swear, according to these express words, by me spoken, and according to the plain and commonsense and understanding of the same words, without any Equivocation or mental Evasion, or secret Reservation whatsoever; And I do make this Recognition, and Acknowledgement heartily, willingly and truly, upon the true Faith of a Christian. So help me God, &c.

I. A. B. Do declare and believe that it is not lawful, upon any pretense whatsoever, to take Arms against the King; And that I do abhor that traitorous Position, of taking Arms by his Authority against his person, or against those that are Commissioned by him. So help me God.

And farther, that you likewise Administer to the same persons that shall be so elected of the Common Council, to be by them subscribed, the ensuing Declaration.

I. A. B. Do declare, that I hold there is no Obligation upon me or any other person from the Oath commonly called the solemn League and Covenant; And that the same was in it self an unlawful Oath, and imposed upon the Subjects of this Realm against the known Laws and Liberties of the Kingdome.

For that otherwise, if the said persons, or any of them, that shall be elected as aforesaid of the Common Council shall not take the said Oaths, and subscribe the said Declaration, their Election and choice is by the late Act of Parliament, for the governing and regulating of Corporations, enacted and declared to be void.

6. And that also in the said Ward-Mote, you cause to be chosen certain other honest persons to be Constables, and Scavengers, and a common Beadle, and a Raker to make clean the Streets and Lanes of all your said Ward, according to the custome yearly used in that behalf, which Constables have, and shall have

to the
common

to the
common

Constables, Scavengers,
Beadle,
Raker.

have full power and authority to distress for the Sallery and Quarterage of the said Beadle and Raker, as oftentimes as it shall be behind unpaid.

**Roll of
names.**

7. Also, that you keep a Roll of the Names, Sur-names, Dwelling-places, Professions and Trades of all persons dwelling within your Ward, and within what Constables Precinct they dwell, wherein the place is to be specially noted by the Street, Lane, Alley, or Sign.

**Constable
Roll.**

8. Also that you cause every Constable from time to time to certifie unto you, the Name, Sur-name, Dwelling-place, Profession, and Trade of every person who shall newly come to dwell within his Precinct, whereby you may make and keep your Roll perfect: and that you cause every Constable for his Precinct to that purpose to make and keep a perfect Roll in like manner.

**Inholder,
Lodger,
Sojourner**

9. Also, that you give special charge, that every Inholder, and other person within your Ward, who shall receive any person to lodge or sojourn in his House above two dayes, shall before the third day after his coming thither, give knowledge to the Constable of the

Pre.

of the Ward-mote Inquests.

33

Precinct where he shall be so received, of the Name, Sur-name, Dwelling-place, Profession, and Trade of life, or place of Service of such person, and for what cause he shall come to reside there: and that the said Constable give present notice thereof to you: and that the said Inholder lodge no suspected person, or Men or Women of evil name.

10. Also that you cause every Constable within his Precinct, once every Month at the farthest, and oftner if need require, to make diligent search and inquiry, what persons be newly come into his Precinct to dwell, sojourn, or lodge: and that you give special charge that no Inholder or other person, shall resist or deny any Constable, in making such search or inquiry, but shall do his best endeavour to aid and assist him therein.

11. And for that of late there is more resort to the City, of persons evil affected in Religion, and otherwise than in former times have been: You shall diligently inquire if any man be received to dwell or abide within your Ward by the space of one year, being above

above the age of twelve years, and not sworn to be faithfull and loyal to the Kings Majesty, in such sort as by the Law and Custom of the City he ought to be.

Beadle. 12. To all these purposes the Beadle of every Ward shall imploy his diligence, and give his best furtherance.

Fire. 13. Also that you have special regard that from time to time, there be convenient provision for Hooks, Ladders, and Buckets, in meet places within the several Parishes of your Ward, for avoiding the peril of Fire.

Streets. 14. Also that the Streets and Lanes of this City be from time to time kept clean before every Church, House, Shop, Ware-house, Door, dead Wall, and in all other common passages and Streets of the said Ward.

Hucksters of Ale and Beer. 15. And where by divers Acts of Common-Councel, aforetime made and established for the Common-weal of this City, amongst other things it is ordained and enacted, as hereafter ensueth.

Also it is Ordained and Enacted, That from henceforth no Huckster of Ale or Beer, be within any Ward of the City of London, but honest persons, and of good name and fame, and so taken and ad-

admitted by the Alderman of the Ward for the time being, & that the same Hucksters do find sufficient Surety afore the Maior and Alderm, for the time being, to be of good guiding and Rule: and that the same hucksters shall keep, no bawdry, nor suffer no Lechery, Dice-playing, Carding, or any other unlawfull games, to be done, exercised, or used within their Houses: and to shut in their Doors at nine of the Clock in the night from *Michaelmas* to *Easter*, and from *Easter* to *Michaelmas* at ten of the Clock in the night, and after that hour sell none Ale or Beer. And if any Huckster of Beer or Ale after this Act published and Proclaimed, sell any Ale or Beer within any Ward of the City of *London*, and be not admitted by the Alderman of the same VVard so to do, or find not sufficient surety as it is above rehearsed, the same Huckster to have Imprisonment, and make fine and ransom for his contempt, after the discretion of the Mayor and Aldermen: and also that the said Hucksters suffer no manner of common eating and drinking within their Cellers or Vaults contrary to the ordinance thereof ordained and pro-

provided, as in the said Act more plainly appeareth at large: we charge you that you do put the same in due execution accordingly.

Measures
Sealed,

16. And also that ye see all Tiplers and other Cellars of Ale or Beer, as well of privy Offeries, as Brewers and Inholders within your Ward, not selling by lawful measures sealed and marked with the City Arms or Dagger be presented, and their Names in your said Indentures be expressed, with defaults, so that the Chamberlain may be lawfully answered of their Amerciaments.

Strange
born, &

17. And also that you suffer no Alien or Son of any born an Alien to be of the Common Council, nor to exercise or use any other office within this City, nor receive or accept any person into your Watch, privy or open, but Englishmen born; and if any Stranger born out of this Realm, made Denizen by the Kings Letters Patents, or any other after his course and lot be appointed to any Watch, that then ye command and compel him or them to find in his stead and place one Englishman to supply the same.

18. And also, that you cause an abstract

fract of the Assize appointed by Act of Parliament, for Billets and other Firewood to be fair written in Parchment, and to be fixed or hanged up in a Table in some fit and convenient place in every Parish within your Ward, where the common people may best see the same.

19. And furthermore we charge & command you, that you cause such provision to be had in your said Ward, that all the Streets and Lanes without the same Ward, be from time to time cleansed and cleerly voided of Ordure, Dung, Mire, Rubbish and other filthy things whatsoever they be, to the annoyance of the Kings Majesties subjects. Streets;

20. And also that at all times as you shall think necessary, you do cause search to be made within your said Ward, for all vagarant Beggars, suspitions and idle people, and such as cannot shew how to live, and such as shall be found within your said Ward, that you cause to be punished and dealt with according to the Laws and the Statute in such case ordained and provided. Vagarrants;

21. And also we will and charge you the said Alderman, that your self certify and present before us, at the same general Jury-men.

general Court to be holden the afore-
said Monday next after the Feast of Epi-
phany, all the Names and Surnames true-
ly written of such persons within your
said Ward, as be able to pass in a grand
Jury by themselves: and also all the
Names and Sur-names truly written of
such persons, being and dwelling within
your said Ward, as be able to pass in a
petty Jury, and not able to pass in a
grand Jury by themselves, that is to say
every grand Jury man to be worth in
Goods an hundred Marks, and every per-
ty Jury man forty Marks, according to
an Act in that case made and provided:
and the same you shall indorse on the
backside of your Indenture.

Charlott.

22. *Item*, for divers reasonable and
urgent considerations, as especially mov-
ing, we straightly charge and command
you on the King our Sovereign Lords
behalf, that you diligently provide and
foresee, that no manner of person or
persons within your said Ward, of what
condition or degree soever he or they be
of, keeping any Tavern or Alehouse, Ale
Cellar, or any other Victualing house
or place of common resort to eat and
drink in, within the same Ward permit,

or

or suffer at any time hereafter any common women of their Bodies, or Harlots to resort and come into their said House, or other the places aforesaid, to eat or drink, or otherwise to be conversant or abide, or thither to haunt or frequent, upon pain of imprisonment, as well of the Occupier and Keeper of every such house or houses: and all other the places afore remembred, as of the said common women, or Harlots.

23. Also, that you do give in charge to the Ward-mote Inquest of your Ward, all the Articles delivered to you herewith. And that you have a special care of keeping the Peace and good order during your Ward-mote, and if any offend herein, you Fine or punish him and them according to Law. Not failing hereof, as you tender the Common Weal of this City, and advancement of good Justice, and as you will answer for the contrary at your uttermost peril,

Articles

L

As

*An Act for the Reformation of
divers Abuses, used in
the Ward-mote Inquests.*

Com-
mons,
Dinners,
Banquet-
ting.

V Hereas the Ward-mote In-
quests, within the several
Wards of this City, for the mainte-
nance of honesty, vertue, and good living
and for the abolishment, excising, and
suppressing of all kind of Vice, evil rule
and iniquity, according to the ancient,
lawdable Lawes and Customes of the
said City, are yearly severally charged and
sworn, upon the day of *St. Thomas* the
Apostle, before the Aldermen of the said
Wards chiefly and principally to the end
and intent, that they with all diligence
should truly and doely inquire and pre-
sent all such Exorbitancies, Nuisances, Mis-
order and Offences, as are, or at any
time within the space of one whole year,
then next ensuing, shall be severally u-
sed, committed, or done within the
said Wards, and have day yearly to make
their said presentments, until the mon-
day,

day next after the Feast of the Epiphany. The said Inquests heretofore, little or nothing at all regarding (as it is very manifest & not unknown, the more is the pity) their said Oaths, or yet the great Commodities, Utility, Quietness, Honour, and Worship, that might or should grow and issue to the said City and Inhabitants of the same, through their good, industrious, and indifferent proceedings, for the advancement of Vertue, and repressing of Vices, have drawn it in a manner into a very ordinary course and common custome, to consume and spend a great part of their said time, that they have yearly given unto them, when they receive their said charge partly in setting up among themselves, a certain Commons; and making and keeping many costly and sumptuous Dinners Suppers, and Banquets, inviting and calling to the same at sundry times, in a manner all the Inhabitants of the said several Wards, to the no little charges of the same Inhabitants, and partly in passing and occupying much part of the same time in playing at Dice, Tables, Cards, and such other unlawful Games both to the great costs, charges, and expences, of the said

Inquests (whereof the greatest part most commonly are but poor men) and also to the very lewd, pernicious, and evil example of all such as have any access or recourse unto the same Inquests. And where also the said Inquests have of late usurped to dispense with such persons as they by their search, and otherwise, have founden to offend and transgress the Laws, in using and occupying of unlawful Weights and Measures taking of the said offenders certain Fines (as it is said) the said Inquests have commonly used to imploy toward the maintenance of their said Feasting and Banqueting, directly against the due Order of our Sovereign Lord the Kings Laws, and the publick wealth of all his Highness Subjects within the said City and much to the reproach and dishonour of the same City.

For Remedy and Reformation thereof, be it ordained, enacted, and established by the Lord Mayor, Aldermen, and Commons, in this present Common Council assembled, and by Authority of the same, that all and every the Wardmote Inquests of the said City, from henceforth to be yearly charged and
sworn

sworn within the several Wards at the time afore rehearsed, shall at all times and places meet and convenient for the due Execution of their said charge, meet and assemble themselves together, and that they and every of them after their said meetings, inquisition, and treating of their said necessary matters, shall go home to their own several houses to Breakfast, Dinner, and Supper, during all the said accustomed time of their charge and Session abovesaid. And that none of the said Inquests shall from henceforward set up any manner of Commons, or keep or maintain any manner of Dinners, Suppers, or Banquets among themselves, or use at their said assemblies and Sessions, any of the Games above mentioned, or any other whatsoever unlawful Games or Playes at any time, before the giving up of the said presentments, at the time above remembered. Or shall take or receive any manner of Fine or Fines, for the concealment and discharging of any of the offences afore recited: but truly present the same offences, and every of them, according to their Oaths, upon pain of imprisonment by the discretion of the

Lord Mayor and Aldermen of the said City for the time being.

Fire and
Candle;
Or, Re-
creation.

Provided alway, and be it enacted by the authority aforesaid, that it shall be lawful for all and every of the said In-questis, to take and receive towards the charges of their Fire and Candles, and other necessities during the time of their said Session, all and every such sums of money, as any honest person or persons of their free will and benevolent mind, will give and offer unto them: and when they have made their said presentments, to go and assemble themselves together, for their Recreation and solace, where they shall think it good: and there not only to bestow and spend the twenty shillings, which every Alderman within his Ward according to a certain Order lately taken, shall yearly give unto them at the time of the delivery of their said Presentments, towards their said charges in this behalf, but also the residue of the said money received and gathered, as it is aforesaid, of the Benevolence of their said loving Friends, if any such residue shall fortune to remain. Any clause or Article in this present Act contained to the contrary notwithstanding.

Not

Not failing hereof, as ye tender the Common Weal of this City, and advancement of good Justice, and as ye will answer for the contrary at your next term of peril.

The Articles of the charge of the Ward-mote Inquest.

1. **Y**E shall swear, that ye shall truly inquire if the Peace of the King our Sovereign Lord be not kept as it ought to be, and in whose default, and by whom it is broken or disturbed.
2. Also, if there dwell any man within the Ward, that is outlawed or indicted of Treason, or Felony, or be any receiver of Traitors or Fellons. Outlawes,
Traitors,
Fellons,
&c.
3. Also, ye shall inquire and truly present all the offences and defaults done by any person or persons within the River of *Thames*, according to the intent and purport of an Act made by our late Sovereign Lord King *Edward* the sixth; in his high Court of Parliament, and also of divers other things ordained by Act of Common Council of *this*

this City, for the redress and amend-
ment of the said River which as now
is in great decay and ruine, and will be
in short time past all remedy if high and
substantial provision and great help be
not had with all speed and diligence
possible: as more plainly appeareth in
the said Act of Parliament, and the said
Act of Common Council of this City.

**Congre-
gations.**

4. Also, if any manner of person
make Congregation, or be Receiver or
Gartherer of evil companies.

**Riotous.
Barrator.**

5. Also if any man be a common Ri-
otor, or a Barrator walking by Nighter-
tale without light, against the rule and
custome of this City.

**Peace,
Mue and
Cry.**

6. Also, if there be any man within
this Ward that will not help, aid, ne
succour the Constables, Beadle, and o-
ther Ministers of this City in keeping
of the Peace, and Arrest the evil doers
with rearing of Hue and Cry.

**Hucksters,
Receiv-
ers of Ap-
prentices,
Artificers,
&c.**

7. Also, if there be any Huckster of
Ale and Beer, that commonly useth to
receive any Apprentices, Servants, Arti-
ficers or Labourers, that commonly use
to play at the Dice, Cards, or Tables,
contrary to the form of the Statute in
that Case ordained and provided.

B. Also,

8. Also, if there be any Inholder, Taverner, Brewer, Huckster, or other Vi-
 sualer, that hold open their Houses af-
 ter the hour limited by the Mayor.

9. Also, if any Parish Clark do ring Curfew
 the Bell called the Curfew Bell, after Cur-
 fewe ringen at the Churches of *Bow*,
Barking Church, *Saint Bridet*, and
Saint Gile's without Cripplegate.

10. Also, ye shall inquire if any Pu-
 tour, that is to say, Man-band, or Wo-
 man-band, common Hazerdours, Con-
 tedour, mainrainer of Quarrels, Cham-
 pions, or Embracers of Inquests, or
 other common misdoers be dwelling
 within this Ward, and present their
 Names.

11. Also, if any Band, common Strumpet,
 Strumpet common Adulterer, Witch, Adulterer,
 or common Scold be dwelling within
 this Ward.

12. Also, if there be any House, Hot-
 wherein is kept and holden any Hot-
 house, or Sweating-house, for ease and
 health of men to the which be resort-
 ing or conversant any Strumpets, or wo-
 men of evil Name, or Fame, or if there
 be any Hot-house or Sweating ordained
 for women, to the which is any com-
 mon

mon recourse of young men, or other persons of evil fame and suspect conditions.

13. Also, if there be any such persons that keep or hold any such Houses, either for men or women, and have found no surety to the Chamberlain for their good and honest behaviour according to the Laws of this City, and lodge any manner of person by night contrary to the ordinance thereof made by the which he or they shall forfeit twenty pounds to the Chamber, if they do the contrary.

Thames,
Ditches,
Streets,
&c.

14. Also, if any manner of person cast or lay Dung, Ordure, Rubbish, Scicolodust, Rushes, or any other thing noisome in the River of *Thames*, *Walbrook*, *Fleet*, or other Ditches of this City, or in the open Streets, Ways or Lanes, within this City.

Channel.

15. Also, if any person in or after great Rain falleth, or at any other time sweep any Dung, Ordure, Rubbish, Rushes, Scicolodust, or any other thing noyant, down into the Channel of any Street or Lane, whereby the common course there is let, and the same thing noyant driven down into the said water of *Thames*.

16. Also,

16. Also, if any manner of prison house or keep Hogges, Oxen, Kine, Ducks, or any Beasts within this Ward, to the annoyance and Disease of their Neigh-

Hogges.
Kine,
Oxen,
Ducks,

17. Also, where afore this time it is ordained and enacted as hereafter followeth. *Item*, for to eschew the evils of misgoverned persons that dayly when they be indebted in one Ward, fly into another: It is ordained by the Mayors and Aldermen that as soon as a man or woman suspect, first do come to dwell within any house, in any Ward within the City, the Constables, Beadles, or other Officers of the same, shall be charged by their Oaths, at the general Court, to inquire and espie from whence they come. And if they find by their own confession, or by the Record of any of the Books of any Alderman of the City, that they be Indicted or cast off evil & noyous life, and will not find surety for their good abearing and honest governance to the Alderman for the time being, that then they shall not dwell there from thenceforth; but shall be warned to aviod within three or four dayes, or more, or less after, as it shall be

Persons
Indicted in
one Ward,
flying in-
to ano-
ther.

Colours
of the
City
shall

For
the
ward
shall

be seen to the Alderman of the Ward for the time being, and that the Landlord that letteth the house or his Attorneys shall be also warned to make them avoid out of his house aforesaid, within the said time limited by the Alderman, and if they be found there after the time that then not only the said dishonourable persons shall have imprisonment of the bodies after the discretion of the Mayor and Aldermen, but also the said Landlords, Lessors of the said houses, shall forfeit to the *Guild Hall*, as much as they should have had for letting of the said house, or should be paid by the year, if the said persons or others had dwelled in the said house: you shall diligently enquire of offences against this Act, and present them.

Colour-
ing for-
raign
Goods.

18. Also, if any Freeman against his Oath made, conceal, cover, or colour the Goods of Forraigners, by the which the King may in any wise lose, or the Franchises of this City be implem-
shed.

Forreign
buying
and sel-
ling.

19. Also, if any Forreigner buy and sell with any other Forreigner within this City or the Subburbs thereof, any Goods or Merchandizes, be forthwith
for-

seizure, to the use of the commonalty of this City.

10. Also, if every Freeman, which Freeman receiveth or taketh the benefit, and enjoy. ^{not resi-}dent, the Franchises of this City, be continually dwelling out of the City, and hath not, he will not (after his Oath made) be at Scot and Lot, nor partner in the charges of this City, for the worship of the same City, when he is duly required.

11. Also, if any man conceal the Orphans Goods of Orphans of this City, of whom ^{Ward,} the Ward and marriage of right belong. ^{Manors} to the Mayor and Aldermen of this ^{places,} City.

12. And if any Officer by colour of ^{Officers,} Office, do extortion unto any man, or be maintainer of Quarrels against right, or take carriage, or arrest Victuals duly.

13. Also, if any Boteman or Feriour ^{Boteman,} dwelling in the Ward, that taketh ^{Feriour,} more for Botemange or Feriage, then is ordained.

14. Also, if any man make Purpre-^{Purpre-}stretes, that is to say, incroach, or take of the common ground of this City, by Land or by Water, as in Walls, Pales, Stoops,

Stoops, Grieces or Dores of Cellars, in any other like within the Ward, if any Porch, Penthouse or Jesty be low, in letting of men that ride be, or Carts that go there forth.

Pent-
houses,
Jesties,
Stalles,
&c.

25. Also, that Penthouses and Jesties be at the least the height of nine foot, and that the Stalles be not but of one foot and a half in breadth, and so be faste or moveable, that is to say, to be taken up by Icmewes or Garnets, so that they may be taken up and let down.

Way, wa-
ter course.

26. Also, if any common way or common course of water be foreclosed or letted, that it may not have his course as it was wont, to the noyance of the Ward, and by whom it is done.

Pave-
ments.

27. Also, if any Pavement be defective, or too high in one place, and too low in another, to the disturbance of Riders and Goers thereby, and that go thereupon.

Regn-
tors,
Forestal-
lers.

28. Also, if any Regrator or Forester of Victual, or of any other Merchandizes which should come to this City, be sold, be dwelling in this Ward, a Regrator is as much to say, as he that buy up all the Victual, or Merchandizes, or the most part thereof when it is come

the City or the Suburbs of the same
at a low price; and then afterwards sell
it at his own pleasure, at a high and
excessive price: A Forefaller is he that
goeth out of the City, and meeteth with
the Victual and Merchandize by the
way, coming unto the City to be sold,
and there buyeth it, both these be called
in the Law *Inimici publici patrie*,
which is to say, open Enemies to a coun-
try.

29. Also, if any Butcher, Fishmonger, Price of
or, Poulter, Vintner, Hostler, Cook, Victual,
or seller of Victual, do sell Victual at un-
reasonable prizes.

30. Also, if any Hostler sell Hay Hay.
Or other Provender at excessive prizes,
taking greater gain thereby then is rea-
sonable and lawful.

31. Also, if any Victualer sell any Victuals,
Victuals not convenient, or unwholesome unwhole-
for mans body, or else dearer then is some
proclaimed by the Mayor, when any price.
such Proclamation is or shall be.

32. Ye shall diligently make search Measures
and inquiry, whether there be any Vint- unsealed.
ner, Inholder, Alehouse-keeper, or any
other person or persons whatsoever
within your Ward, that do use or keep
in

in his or their house, or houses, any Cans, Stone pots, or other Measures which be unsealed, and by Law not allowed to sell Beer or Ale thereby, and whether they do sell any of their best Beer or Ale, above a penny the quart, or any small Ale or Beer above a half-penny the quart, and whether any of them do sell by any Measure not sealed. If there be any such you shall seize them, and send them to the *Guild Hall* to the Chamberlains Office, and present their names and faults by Indenture, so oft as there shall be any occasion so to do.

Weights
and Measures.

33. Ye shall also make search in the Shops and Houses of all the Chaudlers, and of all others, which sell by weight or measure, dwelling within your Ward, and see that their Scales be not one heavier then another, and that their Weights and Measures aswel Bushels as lesser Measures, aswel those that they sell Sea-coales by, (which ought to be heaped) that they be in breadth according to the new Standard, sealed as all others, and that all Yards and Ells that they be their just lengths and sealed that the poor and other his Majesties Subjects be not deceived, And further, if

any do buy by one Weighr or Measure, and sell by others: and if in your search you find any false Weights, Measures, or Scales, ye shall seize them and send them unto the *Guild-Hall* to the Chamberlain: and you shall also do the like if you shall find any that do sell any thing by *Venice* Weights, contrary to the Law and his Majesties Proclamations, present their Names and faults.

34. Also, if any Inholder bake any Bread to sell within his house: and if a ^{brown} Baker, or Baker of fower Bread, bake white Bread to sell, or mark not his Bread, or else take more for the baking then six pence for a bushel.

35. Also ye shall inquire, if any house Hoise, be covered otherwise then with Tile, ^{Tile} Stone, Lead, for peril of Fire.

36. Also, if any Leaper, Faircour, or Leaper, mighty Begger be dwelling with in this ^{Beggar} Ward.

37. Also, if any Baker or Brewer, ^{Bakers, Brewers,} bake or brew with Straw, or any other thing which is perillous for Fire.

38. Also, if any man go with painted ^{Painted} visage.

39. Also, if there be any man that hangeth not out a Lantern with a Candle ^{light,}

M

therein

therein burning after the usage, according to the Commandement thereupon given.

Wood.

40. Also, if any person bring or cause to be brought to this City or the Liberties thereof, to be sold or sell, offer or put to saile any Tallwood, Billers, Faggots, or other Firewood, not being of the full Assize which the same ought to hold.

Country.

41. Also, if any Freeman of this City, use to resort into the Countries near to this City, and there to ingross and buy up much Biller, Talwood, Faggot, Tosard, or other Firewood, and convey the same by Water unto this City, and there lay it upon their Wharfs and other places, and so keep it till they may sell it at high and excessive prizes, at their own wills.

42. Also, if any Woodmonger, or any other; sell any Billers or other firewood above the price set by the Lord Mayor.

**Cheese,
Butter.**

43. Also, if any Citizen of this City by himself, or any other person for him, or to his use, use to resort into the Country, and there buy and ingross greav quantity of Cheese and Butter at well

wellbarrelled as otherwise, and after con-
vey it by Water or otherwise to this
City to be sold at deer and excessive
prices.

44. Also, forasmuch as it is thought ^{Freemen}
that divers and many persons dwelling ^{to shew}
within the Liberties of this City, day- ^{their Cop-}
ly occupy as Freemen, whereas indeed ^{ies}
they be none, nor never were admitted
into the Liberties of this City, ye shall
therefore require every such person
dwelling within this Ward, whom ye
shall suspect of the same, to shew you
the Copy of his Freedom under the
Seal of Office of the Chamberlain of the
said City, and such as ye shall find with-
out their Copies, or deny to shew their
Copies, ye shall write and present their
Names in your Indentures.

45. Also, you shall inquire and truly ^{Melting}
present all such persons as use melting of ^{Tallow}
Tallow, contrary to an Act of Com-
mon Councel in that case made and
provided.

46. Also, you shall inquire of all Ar-
mours and other Artificers using to
work in metall, which have or use any
Reardorses, or any other places dange-
rous or perillous for Fire.

Appraisers,

47. Also, if any have appraised any Goods of any Freeman deceased, leaving behind him any Orphan or Orphans, and the Appraisers not sworn before the Lord Mayor or the Alderman of the Ward,

Beam,

48. Also, if any Freeman buy any Wares or Merchandizes unweighed, which ought to be weighed at the Kings Beam, of any Stranger or Forreign free of the Liberties of this City, contrary to the Act of Common Council in that case made and provided,

Clothes,

49. Also, if any buy and sell any Clothe or Clothes in the House, Shop, Ware-house, or other place of any Clothworker or other person against any ordinance or custome of this City, or if any Clothworker or other do receive or harbour any Clothes before the same be brought to Blackwell Hall, contrary to the ordinance made in that behalf,

Carman,

50. Also, if any Carman take any money for carriage of any Goods, Wares, or Merchandizes, above the rates ordained,

Buildings,
divided
houses,
Inmates

51. Also, if any make or cause to be made any new Building or Buildings

or

or divided or cause to be divided any house or houses, or receive any Inmate or Inmates, contrary to Law, or any Statute of this Realm.

52. Also, if any be dwelling within this Ward, which do offer or put to sale any Wares or Merchandizes in the open Streets or Lanes of this City, or go from house to house to sell the same, commonly called Hawkers contrary to an Act made in that behalf.

53. Also, if any have covenantously, fraudulently, or unduely obtained the freedom of this City.

54. Also, if any Collector of Fifteens Collect. or other duties for the publike service ors. of the King, or of this City, do retain in his hands any part of the money collected to his own use.

55. Ye shall also enquire if there be dwelling within your Ward any Woman broker, such as resort unto mens houses, demanding of their Maid servants if they do like of their services: if not, then they will tell them that they will help them to a better service, and so allure them to come from their Masters to their houses, where they abide as boorders until they be provided for. In

which time it falleth out that by lewd young men that resort to those houses they be oftentimes made Harlots to their utter undoing and the great hurt of the Common wealth: wherefore if any such be, you shall present them, that order may be taken for reformation.

Privies

56. Also, if any have or use any common Privy, having issue into any common Sewer of the City.

Vagabonds

57. Also, if any Constable, Beadle, or other Officer, be negligent or remiss in discharging his duty, touching the Execution of the Statute made for punishment of Rogues, Vagabonds, and sturdy Beggars, or otherwise, and wherein the default is, and the Statute of 1. 4. and 21. *Ias.* concerning the restraint of inordinate haunting and tipling in Innes and Alehouses, and repressing of drunkenness and other offences in the same Statute, and wherein the default is.

Poor

58. Also, if any to whom the Execution of the Statute made for relief of the Poor doth appertain, be remiss in discharging his duty touching the Execution of the same Statute, and wherein default is,

59. Also,

59. Also, if any Executor or other Legacies, person retain in his hands any Legacy, sum of money, or other thing given to any charitable use.

60. Ye shall inquire whether there be within your Ward any common Drunkard, Whoremonger, Blasphemer of Gods holy Name, Prophaner of the Sabbath, Jesuite, Seminary or Secular Priest or any Receiver, Receiver or Maintainer of any of them, or any Popish Recusant, Cozener, or swaggering idle companion, such as cannot give account how they live; if there be any such you shall present them and the Names of those that lodge them, or aid them.

61. Ye shall also enquire, whether any person or persons do or shall say or sing Mass within your Ward, or be present at any Mass.

62. Also, if any person or persons within your Ward being evil affected do or shall extol the Roman Catholick Religion above the Religion professed and established by the Kings Majesties Authority in England, or do or shall deprave the Religion now professed in this Realm by Authority, as above,

which may breed discord in the City, and dissention in the Common wealth, yeshall carefully present the same persons and their offences.

63. Also, if any person or persons that keepeth Horses in their houses, do lay his or their Stable Dung, or such kind of stinking filth in any Streets or Lanes of this City, to the great annoyance of the people passing that way and do not lead his Dung Cart at his Stable door as he ought to do.

Assembly
monthly. 64. You shall assemble your selves once every moneth or oftner if need require, so long as you shall continue of this Inquest, and present the defaults which you shall find to be committed concerning any of the Articles of your charge, to the end due remedy may be speedily supplied, and the offenders punished as occasion shall require.

making
of Pre-
sentments. 65. And in making your Presentments, your Clerk is carefully to write the Christian Name, Sur-name and addition, or calling of every offender, and the name of the Parish wherein the Offence was committed and some certain, time, how long the offence hath been continued

Of the ward-mote Inquests.

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tinued and in presenting any persons, for
dividing Houses or Inmates, to write the
Names and addition to the present
Landlord receiving the Rent, and the
Names of the Tenants in possession, and
of the Inmate in any house, and also to
write in the Margent on the side of e-
very Presentment the Name or Names,
upon whose evidence you make such
Presentment.

*An Act of Parliament for
the Preservation of the River
of Thames,*

*Made in the 27. year of King Hen-
ry the 8.*

WHere before this time the
River of *Thames*, among all
Rivers within this Realm, hath been ac-
cepted

cepted and taken, and as it is indeed most commodious and profitable unto all the Kings Liege people: and chiefly of all other frequented and used, and as well by the Kings Highness, his Estates, and Nobles, Merchants, and other repairing to the City of *London*, and other places, Shires and Counties adjoining to the same: which River of *Thames* is and hath been most meet and convenient of all other, for the safeguard and ordering of the Kings Navy, conveighance of Merchandizes, and other necessities to, and for the Kings most honourable Household, and otherwise, to the great relief and comfort of all persons within this Realm, till now of late divers evil-disposed persons, partly by misordering of the said River, by casting in of Dung and other filth, laid nigh to the Banks of the said River, digging and undermining of the Banks and Walls next adjoining to the same River, carrying and conveighing away of Way-shides, Shore-piles, Boards, Timber-work, Ballast for Ships, and other things from the said Banks and Walls, in sundry places: by reason whereof, great Shelves and Risings have of late been

been made and grown in the farway of the said River, and such Grounds as lye within the Level of the said Watermark, by occasion thereof have been surrounded and overflowed by rage of the said Water, and many great breaches have ensued and followed thereupon, and dayly are like to do, and the said River of *Thames* to be utterly destroyed for ever, if convenient and speedy remedy be not sooner provided in that behalf.

For Reformation whereof, be it enacted, established, and ordained by the King, our Sovereign Lord, and by the assent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same; That if any person or persons hereafter, do or procure any thing to be done in the annoying of the Stream of the said River of *Thames*, making of Shelves by any manner of means, by Mining, Digging, casting of Dung, or Rubbish or other thing in the same River, or rake, pluck, or convey away any Boards, Stakes, Piles, Timberwork, or other thing from the said Banks or Walls, except it be to amend, and the same

same to repair again, or dig or undermine any Banks or Walls on the Waterside of *Thames* aforesaid, to the hurt, impairing or damage of any the said walls or Banks, then the same person or persons, and every of them, shall forfeit and pay for every time so offending, one hundred shillings: the one *Moyety* thereof to be to the King our Sovereign Lord, and the other *Moyety* thereof to the Mayor and Commonalty of *London* for the time being, the same to be recovered & obtained by the Mayor & Commonalty of *London*, by Bill or Plaint, Writ of debt or information severally against every offender in any of the Kings Courts, in which Actions and Suits, or any of them, the party Defendant, shall not be excused or wage his Law, or any protection to be allowed in the same.

And it is further enacted by the Authority aforesaid, that if complaint shall happen to be made to the Lord Chancellor of *England*, Lord Treasurer, Lord President of the Kings Council, Lord Privy Seal, or to any of them by any person or persons or body politicke, that Sir *Thomas Spers* Knight, now having the Office and ordering,

dering, of, &c for ballasting of Ships or any
other that hereafter shall have the Office
and Order of ballasting of Ships do take
any ballast for Ships near the said River
of *Thames*, and do not take for parcel
of the said ballasting the Gravel and
Sand of the Shelves between *Greenwich*
and *Rieburn* within the said River of
Thames, or in any place or places, that
is or shall be unto the damage or annoy-
ance of the said River of *Thames*, or in
any part thereof, that then upon every
such complaint the said Lord Chance-
llour, Lord Treasurer, Lord President of
the Kings most honourable Council,
Lord Privy Seal, and every of them,
calling both the Chief Justices of either
Bench, or one of them, shall have pow-
er and authority from time to time, to
hear and finally determine every such
complaint, by their discretion, and to
put such order therein, for the taking
of ballast for Ships upon every such com-
plaint as by their discretions shall seem
most convenient for the preservation of
the said River of *Thames*; and the par-
ties offending such order, shall suffer
imprisonment, and make no less Fine
then five pound to the Kings use for
every

An Act for the Preservation

every time offending or breaking the same.

Provided alwayes, and be it enacted, that it shall be lawful to every person and persons, to digge carry, and take away, Sand, Gravel, or other Rubbish Earth, or thing lying or being in, or upon any Shelve or Shelves within the said River of *Thames*, with out let or interruption of any person or persons, or paying any thing for the same, any thing contained in this present Act, to the contrary notwithstanding.

An Act of Common Councel concerning the conservation and cleansing of the River of Thames,

made the 28. of September, in the 30. year of King Henry the 8.

VV Here by the Statute made in the 27. year of the Raig of our Sovereign Lord King *Henry* the eight among other for Reformation of the

the m'fordering of the River of *Thames* by casting in Dung and other filth, many great Shelves and other risings have been of late grown and made within the same River: By reason whereof, many great breaches have ensued by occasion thereof, which of like shall be the occasion of the utter destruction of the said River, unless that the same Law be put in due Execution according to the true intent and meaning thereof.

Wherefore for a further Reformation of the same, and to the intent that the said good and wholesome Statute may be put in more Execution, and better knowledge of the people: It is enacted by the Authority of this Common Council, that Proclamation may be made within this said City: and the same to be put in writing and Tables thereof made and set up in divers places of this City, that it shall be lawfully to every person or persons, to dig, carry away, and take away Sand, Gravel, or any Rubbish, Earth, or any thing lying or being in any Shelve or Shelves within the said River of *Thames*, without let or interruption of any person or persons, and without any thing paying
for

for the same, and after that to sell the same away, or otherwise occupy or dispose the said Gravel, Sand, or other thing, at their free liberty and pleasure. And that all Paviers, Bricklayers, Tilers, Masons, and all other that shall occupy Sand, or Gravel, shall endeavour themselves, with all their diligence, to occupy the said Sand or Gravel, and none other, paying for the same reasonably, as they should and ought to pay for other Sand or Gravel, digged out of other mens Grounds, about the said City, which after is filled again with much filthy things, to the great infection of the Inhabitants of the said City, and all other repaiing unto the same. And that further, humble Suit may be made to the Kings Highness, that all persons having Lands or Tenements along the said River side, upon certain pain by his Highness, and the Lords of his most Honourable Councel to be limited, shall well and sufficiently repair and maintain all the Walls and Banks adjoyning unto their said Lands, that so the Water may not, nor shall break in upon the same: and the same to be continued till the time that the said noble River be brought

brought again to his old course and former Estate. And that strong Grates of Iron along the said Water-side, and also by the Street-side, where any Watercourse is had into the said *Thames* be made by the Inhabitants of every Ward, so along the said Water as of old time hath been accustomed. And that every Grate be in height four and twenty inches at the least : or more, as the place shall need, and in breadth one from another, one inch : and the same to be done with all expedition and speed. And if the occupiers of the said Lands and Tenements make default contrary to the Ordinance aforesaid : or else if any person or persons in great Rains and other times, sweep their soylage or filth of their houses into the Channel, and the same after is conveighed into the *Thames* ; every person so offending, shall forfeit for every such default twenty pence, and that upon complaint to be made to any Constable, next adjoyning to the said place where any such default shall be found, it shall be lawful for the said Constable, or his sufficient Deputy for the time being, from time to time distrain for the same offence. And to

retain the same irreplegiabie, and like Law to be observed and kept. And like penalty to be paid for every person that burn Rushes and Straw in their houses, or wash in the common Streets or Lanes, and to be recovered as aforesaid, and the one moyety thereof to be to the Mayor and Commonalty, and the other moyety to be divided between the said Constable that taketh pain and the party finder of the said default. And if the Constable or his Deputy refuse to do his duty according to the true meaning of this Act, that then the Constable or his Deputy, which shall so refuse to his duty as aforesaid, shall forfeit and pay for every time so offending, three shillings four pence. And the same penalty of the said Constable to be recovered and obtained by distress irreplegiabie, to be taken by any of the Officers of the Chamber of *London* to the use of the Mayor and Commonalty of *London*.

And further, that no person or persons having any Wharfe or House by the said Water-side, make not their Laystalles nigh to the River aforesaid, except only the common Laystalles, where

where the Common Rakers of this City use to repose, and lay all their Soylage, to be carried away by them with their Dung-boats. And that the said Rakers shall lay their said Dung, carried in their Dung-boats, to such convenient place or places, as shall be appointed by the Lord Mayor of *London* for the time being, with the advice of his Brethren the Aldermen of the same, and to no other place or places, upon pain to forfeit for every such default five pound, to be recovered in any of the Kings Courts within the City of *London*, by Bill, Plaint, Moyety of Debt, or information by any person that will or shall pursue for the same: the one Moyety thereof to be unto the Mayor and Commonalty of *London*, and the other Moyety to him or them that will or shall pursue for the same, in which Actions or Suits, no wager of Law nor Essoyn shall be allowed.

The Oath of the Constables within the City of London.

YE shall swear, that ye shall keep the Peace of our Sovereign Lord the King, well and lawfully after your power. And ye shall Arrest all them that make Contect, Riot, Debate, or Afray, in breaking of the said Peace, and lead them to the House or the Compter of one of the Sheriffs. And if ye be withstood by strength of misdoers, ye shall rear on them an Out-cry, and pursue them from Street to Street, and from Ward to Ward till they be Arrested: and ye shall search at all times, when ye be required by the Scavengers or Beadles, the common noysance of your Ward. And the Beadle and Raker you shall help to reare and gather their Sallery and Quarterage if ye be thereunto by them required. And if anything be done within your Ward against
the

the Ordinance of this City, such defaults as ye shall find there done, ye shall them present to the Mayor and Ministers of the City: and if ye be letted by any person or persons, that ye may not duly do your Office, ye shall certifie the Mayor and Council of the City, of the Name or Names of him or them that so let you.

Ye shall also swear, that during the time that ye shall stand in the Office, and occupy the Room of a Constable, ye shall once at the least every moneth, certifie and shew to one of the Clerks of the Mayors Court, and in the same Court, as well the Names as Sur-names of all Free men; which ye shall know to be deceased within the moneth in the Parish wherein ye be inhabited, as also the Names and Sur-names of all the Children of the said Free-men so deceased, being Orphans of this City. And thus you shall not leave to do, as God you help. &c.

God save the King,

**The Oath of the Scaven-
gers.**

YE shall swear, that ye shall diligently
over-see that the Pavements within
your Ward be well and sufficiently repaired
and not made too high in noysance of your
Neighbours: and that the Ways, Streets, &
Lanes be cleansed of Dung & all manner of
filth for the honesty of this City. And that
all the Chimnies, Furnaces, and Reredofs
be of Stone sufficiently and defensibly
made against peril of Fire. And if ye
find any the contrary, ye shall shew it to
the Alderman of the Ward, so that the Al-
derman may ordain for the amendment
thereof. And thus ye shall do, as God
yeu help.

God save the King.

The Oath of every Freeman of this City of London.

YE shall swear that ye shall be good
and true to our Sovereign Lord King
Charls, and to the Heirs of our said Sovereign Lord the King. Obedient and obedient ye shall be to the Mayor and Ministers of this City, the Franchises and Customs thereof ye shall maintain, and this City keep harmless in that which in you is. Ye shall be contributory to all manner of charges within this City, as Summons, Watches, Contributions, Taxes, Tallages, Lot and Scot, and to all other charges bearing your part as a Freeman ought to do. Ye shall colour no Forraign Goods, under, or in your name, whereby the King or this City might or may lose their Customs or Advantages. Ye shall know no Forraigner to buy and sell any Merchandize with any other Forraigner within this City or Franchise thereof, but ye shall warn the Chamberlain thereof, or some Minister of the Chamber, Ye shall im-

plead or sue no Freeman out of this City, whiles ye may have Right and Law within the same City. Ye shall take none Apprentice, but if he be free born (that is to say) no Bond-mans Son, nor the Son of any Alien, and for no less term then for seven years, without Fraud or Deceit: and within the first year ye shall cause him to be enrolled, or else pay such a Fine as shall be reasonably imposed upon you for omitting the same: and after his term end, within convenient times (being required) ye shall make him Free of this City, if he have well and truly served you. Ye shall keep the Kings Peace in your own person. Ye shall know no Gatherings, Conventicles, or Conspiracies made against the Kings Peace, but ye shall warn the Mayor thereof, or let it to your power. All these points and Articles ye shall well and truly keep, according to the Laws and Customes of this City to your power. So God you help.

God save the King.

*An Act of Common Council 1. of
June, 18. K. H. 8. Concerning
making Freemen of the City, a-
gainst colouring forreign
Goods.*

AT this Common Councel, it is agreed, granted, ordained and enacted, That if hereafter any Freeman or Free-woman of this City, take any Apprentice, and within the term of seven years suffer the same Apprentice to go at his large liberty and pleasure : and within, or after the said term, agree with his said Apprentice for a certain sum of money, or otherwise for his said service, and within or after the end of the said term, the said Freeman present the said Apprentice to the Chamberlain of the City, and by good deliberation, and upon his Oath made to the same City, the same Freeman or Freewoman assureth and affirmeth to the said Chamberlain, that the said Apprentice hath fully served his said term as Apprentice. Or if any Freeman or Freewoman of this
City,

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City, take any Apprentice, which at the time of the said taking hath any Wife. Or if any Freeman or Freewoman of this City, give any Wages to his or her Apprentice, or suffer the said Apprentices to take any part of their own getting or gains. Or if any Freeman or Freewoman of this City hereafter, colour any Forreign Goods, or from henceforth buy or sell for any person or persons, or with or to any person or persons, being Forreign, or Forreigners, Cloths, Silks, Wine, Oyles, or any other Goods or Merchandize whatsoever they be, whether he take any thing or things for his or their Wages or Labor, or not. Or if any person or persons being Free of this City, by any colour or deceitful means from henceforth, do buy, sell, or receive of any Apprentice within this City, any money, goods, merchandize, or wares, without the assent or license of his Master or Masters; and upon examination duly proved before the Chamberlain of the said City for the time being. And the same reported by the mouth of the said Chamberlain at a Court to be holden by the Mayor and the Aldermen of the same City in their Council Chamber:

That

That aswel the said Master as the said Apprentice, shall for evermore be disfranchised.

God save the King.

The Statutes of the Streets of this City, against Annoyances.

1. **F**irst, no man shall sweep the filth of the Street into the Channel of the City, in the time of any Rain, or at any other time, under pain of six shillings eight pence.

2. No man shall cast, or lay in the Streets, Dogs, Cats, or other Carren, or any noysome thing contagious of Air. Nor no Inholder shall lay out Dung out of his house, but if the Cart be ready to carry the same away inconsequently, under pain of forty shillings.

3. No Brewer shall cast wilfully dregs or dross of Ale or Beer into the Channel, under pain of two shillings.

4. No man shall encumber the Streets with Timber, Stones, Carps, or such

such like, under pain of Forfeiture of the same thing that so encumbereth the Streets, which is twenty shillings fine, if he remove it not at the warning of the Serjeant of the Market.

5. Every Builder of houses ought to come to the Mayor, Aldermen and Chamberlain, for a special License for hound of by him to be made in the high Street, and no Builder to encumber the Streets with any manner of thing, taking down for the preparing of his New Building under pain of forty shillings, except he make a hound of forty shillings.

6. No man shall set any Carts in the Streets by night time, under the pain of twelve pence, and recompence to such persons as shall be hurt thereby, if any such be, twelve pence.

7. No Budge-man shall lead but two Horses, and he shall not let them go unled, under pain of two shillings.

8. No man shall ride, or drive his Car, or Cart atrot in the Streer, but patiently, under pain of two shillings.

9. No man shall Gallop his Horse in the Street, for Wager or otherwise, under like pain of two shillings.

10. No man shall Shoot in the Street,

Of this City, against Annoyances. 189

for Wager or otherwise, under like pain of two shillings.

11. No man shall bowl, or cast any Stone in the Street, for Wager, or gain, or such like, under pain of two shillings.

12. No man shall dig any hole in the Street, for any matter, except he stop it up again, under pain of two shillings and recompence to any person hurt thereby, two shillings.

13. No man bury any Dung, or Goung, within the Liberties of this City, under pain of forty shillings.

14. Goung-Fermour shall carry any Ordure till after nine of the Clock in the night, under pain of thirteen shillings four pence.

15. No Goung-Fermour shall spill any Ordure in the Street, under pain of thirteen shillings four pence.

16. No man shall bait Bull, Bear, or Horse in the open Street, under pain of twenty shillings.

17. No man shall have any Kine, Goats, Hogs, Pigs, Hens, Cocks, Capons, or Ducks in the open Street, under pain of forfeiture of the same.

18. No man shall maintain any biting Curs, or mad Dogs, in the Streets, under

der pain of two shillings, and recompence unto every party hurt therewith, two shillings.

19. No Carres that shall be shod with Spig-nails that shall come upon the Streets of this City, under pain of three shillings four pence.

20. No Carres using dayly carriage within this City, nor Car shall have Wheels shod with Iron, but bare, under pain of six shillings.

21. No man shall burn any Straw, Rushes, or other thing, Linnen or Woollen, in the Streets, by night or by day, under pain of three shillings four pence.

22. No man shall blow any Horn in the night within this City, or Whistle after the hour of nine of the Clock in the night, under pain of imprisonment.

23. No man shall use to go with Vizards, or disguised by night, under pain of imprisonment.

24. That Night-walkers, and Eve-droppers, indure like punishment.

25. No Hammer-man, as a Smith, Pewterer, a Founder, and all Artificers making great sound, shall not work after the hour of nine in the night, nor

fore the hour of four in the morning under pain of three shillings four pence.

26. No man shall cast into the Ditches of this City, or the Sewers of this City, without the Walls, or into the Walls, Grates, or Gullers, of this City, any manner of Carren, stinking Flesh, rotten Fish, or any Rubbish, Dong, Sand, Gravel, Weeds, Stones, or any other thing to stop the course of the same, under pain of cleansing them at his own cost and charge, under pain of Imprisonment.

27. No man shall make any Widdowes in any of the Town-Ditches, or the Town-Gullers, under the pain of twenty shillings.

28. No man shall build nigh the Walls of this City, without License of the Lord Mayor, Aldermen, and Chamberlain, under pain of throwing down the same, and no Licence may be granted except that the Chamberlain freely at all times have convenient and needful ingress, and entry, going out, and clear recourse.

29. No man shall go in the Streets, by night or by day, with Bow bent; or Arrows under his Girdle, nor with
Sword

Sword unscabberd, under pain of imprisonment; or with Hand-Gun having therewith Powder and Match except it be in an usual May-game, or fight.

30. No man shall after the hour of nine at the night, keep any rule whereby any such sudden Out-cry be made in the still of the night, as making any Affray, or beating his Wife, or Servant, or Singing, or Revelling in his house, to the disturbance of his Neighbours, under pain of three shillings four pence.

31. No man shall make an Affray upon any Officer, which with good Deemeanour doth his message by Commandment from my Lord Mayor, or any Alderman, or Mr. Sheriffs, or Mr. Chamberlain, or misbehave himself in any Rayling upon any Judge of this City, or their Officers, which by Commandment are sent to bring any breaker of this Law and Custome to Ward, or to distress, or such like, upon pain of Imprisonment of forty dayes, and forfeiture of the double penalty: for the offences asselting, railing upon any Alderman, or Mayor in his Office is Judgement of the Pillory: Railing upon Mr. Chamberlain

berlain in his Office, forty dayes Imprisonment: beating, threatning, and railing of an Officer, is Imprisonment after the Trespass is.

32. *Memorandum*, That every offence found in this City, it is accustomed that the Officer, a Freeman, finding it, which is called *primus Inventor*, hath half the penalty by the grace of the Court.

33. Also every Freeman may find any offence, but he hath no power to bring the party before any Judge of this City, without an Officer, except the party will come to his answer by free will.

34. No man hath power to Arrest, Attach, or make distress of any Goods forfeitable, or offences, except the Constable or Serjeant of the Mace.

35. No Butcher or his Servant shall not use to drive any Oxe or Oxen attroc in the Streets, but peaceably: and if an Oxe happen to be let go when he is prepared to slaughter, the Butcher shall forfeit two shillings besides recompence if any person be hurt thereby.

36. No Butcher shall scald Hogs, but in the common Scalding-House,

upon pain of six shillings eight pence,

37. No Butcher shall sell any Meas-
sel Hog, or unwholesome Flesh under
pain of ten pounds.

38. No Butcher shall sell any old
stale Victual; That is to say, above the
slaughter of three dayes in the Winter,
and two in the Summer, under pain of
ten pounds.

39. None unreasonable Victual for
all manner of Victuals.

40. No Victualler of this City shall
shall give any rude or unsetting Lan-
guage, or make any clamour upon any
man or woman in the open Market, for
cheapning of Victual, under pain of
three shillings four pence.

41. No Butcher shall cast the inwards
of Beasts into the Streets. Cleaves of
Beasts Feet, Bones, Horns of Sheep, or
other such like, under pain of two shil-
lings.

42. The Pudding-cart of the Sham-
bles shall not go afore the hour of nine
in the night, or after the hour of five in
the morning, under pain of six shillings
eight pence.

43. No man shall cast any Urine-
boles, or Ordure-boles, into the Street

by

by day or night, afore the hour of nine in the night: And also he shall not cast it out, but bring it down, and lay it in the Channel, under the pain of three shillings four pence. And if he do cast it upon any persons head, the party to have a lawful recompence, if he have hurt thereby.

44. No man shall hurt, cut, or destroy any Pipes, Sespitals, or Windvents pertaining to the Conduit, under pain of Imprisonment, and making satisfaction, though he doth it out of the City, if he may be taken within the City.

45. No man within this City may make any Quill and break any Pipe of the Conduit coming through his house, or nigh his ground, under pain of the Pillory or take any water privily unto his house.

46. Casting any corrupt thing, spoysoning the water, Loughary and Fellony.

47. Whosoever destroy or perish any Cocks of the Conduit, must have Imprisonment and make satisfaction.

*Old Laws and Customes of this
City.*

48. **N**O man shall set up Shop or occupy as a Freeman afore he be sworn in the Chamber of *London*, and admitted by the Chamberlain, under pain of.

49. No man shall set over his Apprentice to any other person, but by license of Master Chamberlain, and there to be set over, under pain of.

50. No man which is a Forreign, shall nor buy nor sell within the Liberties of this City with any other Forreign, under pain of forfeiture of the Goods so Forreign bought and sold.

51. No Freeman shall be disobedient for to come at Master Chamberlains commandement, to any summons to him given by any Officer of the Chamber, under pain of Imprisonment.

52. Master Chamberlain hath power to send a Freeman to Ward, that he incontinently after send to the Lord Mayor, the cause why that he is punished,

ed, so that the Lord Mayor release him not, but by the Chamberlains assent: and if he be a great Commoner and disobeying to the Chamberlain, Master Chamberlain may refer it to a Court of Aldermen.

Master Chamberlain hath Authority to send or command any Apprentice to the Counter for their offences: and if their offences be great, as in desyling their Masters houses by vicious living, or offending his Master by theft, or dissander, or such like, then to command him to *Newgate*.

Apprentice enrolled, his Master payeth two shillings six pence.

Apprentice set over, he that receiveth, two shillings.

Apprentice made Free he payeth four shillings.

Apprentice never Enrolled, and made Free, his Master payeth thirteen shillings two pence.

A man made Free by his Fathers Copy, payeth eighteen pence.

A Proclamation made in the time of the Mayoralty of *Sir Michael Dormer* Knight.

An Act of Common Councel, made

in the Even of *St. Michael, Anno Regis Henrici Octavi 21.* That no person should lay any Wares in the Street, or beyond the edge of their Stall, upon pain of forfeiture the first time six shillings eight pence: the second time thirteen shillings four pence: and the third time, the Ware so laid,

By an Act of Parliament in the 14. Car. 2.

IT is enacted, that all and every person that inhabiting within the Cities of *London and Westminster*, Suburbs and Liberties thereof, and *Burrough* of *Southwark*, or in any the new built Streets, Lanes, Alleys and publick places, before their respective Houses, Buildings and Walls twice every week *viz.* Wednesday and Saturday, and all the soile, dirt and other filth, shall cause to be caken up into Baskets, Tubs, or other Vessels, ready for the Scavenger or other Officer, to carry away upon pain of three shillings four pence for every

every offence or neglect respectively.

That no person whatsoever, shall throw, cast or lay, or cause to be cast, thrown or laid, any Seacole-Ashes, Dust, Dirt or other Filth, withⁿ the said Cities and places aforesaid, in any place, Street, Lane or Alley, before his, her, or their own dwelling Houses, Buildings or Walls on the penalty of five shillings; And if before the Houses, Building, &c. of any of their Neighbours or other Inhabitants of the said Cities or places, or before or against any Church, Churchyard, or any of his Majesties Houses, Buildings or Walls or any other publick Houses, Buildings, &c. or cast, lay or throw, &c. into any common or publick Sink, Vault, Water-course, Common-sewer, or Highway within the Cities or places, &c. or any other private Vault or Sink of any of his Neighbours, or other In- any Dust, Ashes, Filth, Ordure, or other noisome thing whatsoever, but shall keep, or cause the same to be kept in their respective houses, &c. until such time as the Raker, Scavenger, &c. or other Officer do come by or near their houses or doors, with his Carr, Barrow,

or other thing used for the cleansing of the Streets, and carrying away thereof; And then shall carry the said Ashes, Dust, &c. out of their houses and deliver it to the Raker, Scavenger or Officer or otherwise put the same into his Cart, &c. upon pain to forfeit twenty shillings for every offence.

The respective *Churchwardens*, *Houſe-keepers* of *Whitethall*, or other his Majesties houses; *Houſekeepers* or *Porters* of *Noblemens* houses, *Ushers* or *Keepers* of the Courts of Justice, and all other publick houses and places respectively shall be liable to suffer the like penalties, forfeitures and punishments for every like forementioned offences done or suffered to be done before any Church, Churchyard, or before any of his Majesties houses, *Noblemens* houses, Buildings, or before any other publick houses, or places whatsoever respectively.

No person shall hoop, wash or cleanse any *Pipe*, *Barrel* or other *Cask* or *Vessel*, in any the Streets, Lanes, or other passages aforesaid, nor set out any empty Coaches to make or mend, or rough Timber or Stones to be sawn or wrought
in

in the Street upon pain of twenty shillings for every offence.

The *Rakers, Scavengers* and *Officers* hereunto appointed, every day in the week (except *Sundays* and other *Holy-days*) shall bring *Carts, Dung-pots* or other fitting *Carriages* into all the streets within their respective *Wards, Parishes* and *Divisions*, where such *Carts &c.* can pass, and at or before their approach, by *Bell, Clapper* or otherwise, shall make loud noise and give notice to the *Inhabitants* of their coming, and so into every *Court, Alley* or place where *Carts* can pass; and abide or stay there a convenient time, that all persons concerned may bring forth their respective *Ashes, Dust, &c.* to the respective *Carts, &c.* All which the said *Raker, Scavengers* or *Officers* shall carry away upon pain of forty shillings for every offence, or neglect respectively.

All the open *Streets, Lanes* and *Alleys* within the *Cities* and places aforesaid, are to be sufficiently repaired and paved, and kept paved, and sufficiently repaired, at the cost of the *Housholders* in the said *Streets, Lanes, &c.* respectively

ly viz. Every Householder to repair and pave, and keep repaired and paved the *Streets* and *Lanes*, &c. before his house unto the *Charnel* or middle of the same *Street* or *Lane*, &c. upon pain of forfeit twenty shillings for every Rod, and after that proportion, for a less quantity, for every default, and twenty shillings a week for every week after, till it be sufficiently paved and amended. Provided such ancient *Streets*, *Lanes*, &c. within the said *Cities*, or either of them, the *Suburbs* or *Liberties* thereof, as by custome and usage have been repaired in other manner, shall be hereafter repaired, paved and amended in such sort, by such persons as have used to repair, pave and maintain the same under the penalties aforesaid.

Every Householder within the said *Cities* and places aforesaid, whose houses adjoyns unto, or is next the *Street* from *Michaelmas* till our *Lady-day* yearly, shall set or hang out Candles or Lights in Lanthorns, or otherwise in some part of his house next the *Street*, to enlighten the same for Passengers, from such time as it shall grow dark until nine of the clock in the Evening upon pain of 1. sh. for every default. Every

Every Justice of either Bench, Baron of the Exchequer, and Justices of the Peace of *London* and *Wistminster*, have power on their own view, or proof by one Witness upon Oath to convict persons offending against this Act, and to dispose the penalties towards mending and cleansing the Streets, if upon proof, half to the party informing, if upon conviction by new, then the whole to the repairing and cleansing the Streets or Wayes, to be levied by Warrant from any Justice under his Hand and Seal directed to the Constable or other Officer of the same Parish by distress and sale of his Goods, and for default (if no Peer) imprisonment until payment.

Within *London* and the Liberties thereof the Scavengers, Rakers and such like Officers shall be elected, and the Rates and Assessments for them for the cleansing of the Streets shall be rated, raised and paid by the Parishioners and Inhabitants of every Parish and Precinct according to the ancient custome and usage of the City, and all new Messuages, Tenements and Houses shall be

be rated and assessed, and pay proportionable with the other in *Westminster*, the said Officers shall be chosen according to the custome of that City, and the rates paid according to the custome of that City, in all other Parishes or places upon every Tuesday or Wednesday in *Easter* week : The Constables, Churchwardens and Overseers for the Poor, Surveyors of the Highways of every Parish aforesaid, giving notice and calling together such Inhabitants of their Parishes, as have born the like Officers, they or the greater number of them shall appoint two, that are Tradesmen in their Parishes, to be Scavenger, for the Streets, &c. of each Ward to continue for a year, who shall perform the office upon pain of twenty pound, but upon refusal others shall be chosen, the same penalties to be levied and employed for mending the Streets and Wayes of the same Parish, by distress and sale of the offenders Goods, and imprisonment by default by warrant as aforesaid.

Within twenty days after election of such Officers, a Tax or pound rate shall be made by the Inhabitants of every Parish, which being confirmed by two Justices

Justices of the Peace, shall be quarterly paid upon demand by the Officers appointed, and upon refusal levied by distress and sale of the Goods, by warrant from two Justices of the Peace, and for lack of distress by imprisonment of the offender (not being a Peer) until payment.

Provided all Actions against persons for executing this Act, shall be laid in their proper County, and the Defendant may plead the general Issue and recover double cost if wrongfully vexed.

By the same Statute no Hackney Coachman licensed, shall take for his hire in or about the City of *London* and *Westminster*, above 10. sh. for a day reckoning 12. hours to the day, and not above 18. d. for the first hour, and 12. d. for every hour after, and no Gentleman or other person shall pay from any of the Inns of Court or thereabouts to any part of *St. James* or *Westminster* above 12. d. and the same rates to the same places or thereabouts back again, and from any of the said Inns of Court, or thereabouts, to the Royal Exchange 12. d. to the Tower of *London*, *Bishopsgatestreet*, *Algate* or thereabouts 18. d.

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13.d. and so from the said places to the
Inns of Court, and the like rates from
and to any place of like distance and if
any Coachman shall refuse to do, act,
or exact more for his hire then thereby
limited he shall for every offence for-
feit 10. sh.

F I N I S

Radcliffe Trustees.

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